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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In re

ASHKAN MIRFAKHR RAJAEE and NASSIM RAJAEE,

Debtors.

Case No. 24-00617-CL7

Chapter 7

CHAPTER 7 TRUSTEE'S MOTION TO APPROVE PROPOSED SETTLEMENT AGREEMENTS; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATION OF CHRISTOPHER R. BARCLAY

Hearing:
Date: November 25, 2024
Time: 10:30 a.m.
Place: Dept. 1, Room 218
325 West F Street
San Diego, CA 92101
Judge: Hon. Christopher B. Latham

[Notice of Hearing and Motion and Declaration of Jesse S. Finlayson filed herewith]

TO THE HONORABLE CHRISTOPHER B. LATHAM, UNITED STATES BANKRUPTCY JUDGE, AND ALL INTERESTED PARTIES:

Christopher R. Barclay (the "Trustee"), the chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee ("Rajaee") and Nassim Rajaee (together, the "Debtors"), hereby moves this Court for an order approving (a) the Settlement Agreement dated October 15. 2024, between the Trustee and Tyler Davis ("Davis") and TopDevz, LLC ("TopDevz"), and attached as **Exhibit A** to the Declaration of Christopher R. Barclay (the "Barclay Declaration"); (b) the Settlement Agreement dated September 26, 2024, between the Trustee and Talentcrowd, LLC ("Talentcrowd"), Joshua Lintz ("Lintz"), Melissa Garcia, Amanda Frye, Purdy & Bailey, LLP, Micah L. Bailey, Jonathan Gerber, Miller Miller Gerber, LLP, and Skan Technologies Inc., and attached as **Exhibit B** to the Barclay Declaration; (c) the Settlement Agreement dated September 30, 2024, between the Trustee and Kresses and Piasecki Legal PC and Kolette Kresses, and attached as **Exhibit C** to the Barclay Declaration; and (d) the Settlement Agreement dated October 1, 2024, between SeaNet Company, Inc. and Jensens Bay, LLC, and attached as **Exhibit D** to the Barclay Declaration (collectively, the "Settlement Agreements"). The Trustee also seeks approval of the Trustee's consent and the Trustee's execution of the Unanimous Written Consent of the Members of TopDevz, LLC (the "Unanimous Written Consent") attached as Exhibit A to the Trustee's Settlement Agreement with Davis and TopDevz.

This Motion is made pursuant to Federal Rules of Bankruptcy Procedure 2002 and 9019 and section 363 of title 11 of the United States Code (the "Bankruptcy Code"), and Local Bankruptcy Rules 2002-1 and 9019 on the grounds that the compromises embodied in the Settlement Agreements are fair and equitable and in the best interests of the bankruptcy estate and creditors.

This Motion is based on the Notice of Motion and Hearing filed herewith, the accompanying Memorandum of Points and Authorities, the Barclay Declaration and attached exhibits, the Declaration of Jesse S. Finlayson filed herewith, all other papers and records in the Debtors' bankruptcy case, all matters of which this Court may take judicial notice and such further evidence and argument as may be presented to the Court at or before any hearing on this matter.

DATED: October 23, 2024

FINLAYSON TOFFER
ROOSEVELT & LILLY LLP

By: */s/ Jesse S. Finlayson*
Jesse S. Finlayson
Attorneys for Christopher R. Barclay, Chapter 7 Trustee

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MEMORANDUM OF POINTS AND AUTHORITIES

The Trustee submits the following Memorandum of Points and Authorities in support of the Motion:[1]

I. INTRODUCTION

This Motion is the product of months of work by the Trustee. As explained in detail below, when this case was converted from chapter 11 to chapter 7, the Trustee was thrust into the middle of highly contentious and complicated litigation between Rajaee and his former business partner, Davis. The Trustee has now negotiated settlements that will resolve much of the pending litigation. These proposed settlements create a reasonable path forward to allow the Trustee to effectively administer this estate.

Prior to bankruptcy, Rajaee and Davis were engaged in a bitter years-long dispute over their ownership of TopDevz. Davis prevailed in arbitration and obtained a judgment confirming the arbitration award. Rajaee appealed. Rajaee also filed a series of collateral lawsuits in both state and federal court against Davis, TopDevz, and virtually everyone connected with the dispute. Rajaee sued many of TopDevz's former employees and customers, TopDevz's former accounting firm, Rajaee's former attorneys, and several attorneys that represented various defendants in Rajaee's lawsuits. To date, Rajaee's efforts to collaterally attack the arbitration award have been unsuccessful. Several of his lawsuits were stayed or dismissed.

Rajaee's litigation efforts continued post-bankruptcy. Shortly after filing for chapter 11 protection, Rajaee filed yet another action in this Court against Davis and TopDevz. Eventually, this Court converted the Debtors' chapter 11 bankruptcy case to chapter 7 liquidation, finding, among other grounds, that Rajaee's "litigation history … suggests bad faith."

[1] Unless otherwise indicated, capitalized terms used in this Memorandum of Points and Authorities have the meaning given to them in the Motion.

The Trustee engaged in protracted back-and-forth negotiations with the defendants in these actions and also discussed the situation at length with Rajaee. The Trustee has now entered into four separate but related Settlement Agreements that, if approved, will resolve much of the estate's pending litigation. Together, the proposed settlements will resolve the collateral attacks on the arbitration award and several related cases. These settlements will generate $389,919.17 in much-needed cash for the estate and, more importantly, allow the Trustee to stop incurring unsustainable legal fees on numerous litigation matters.

At the same time, the Trustee's proposed settlement with Davis and TopDevz expressly **excludes** the appeal of confirmation of the arbitration award and any proceedings on remand. Despite Rajaee's questionable litigation strategy, the Trustee believes there may have been material problems with the arbitration process and that Rajaee's appeal of the arbitration award is neither frivolous nor improper. Moreover, Rajaee has a legitimate interest in the outcome of the appeal because it may impact both the non-dischargeability action filed against him by Davis and TopDevz and possibly Rajaee's non-dischargeable tax liability. The Trustee currently intends to either prosecute the appeal using estate funds or potentially abandon the appeal to Rajaee.[2]

For these reasons, the Trustee believes the proposed settlements strike an appropriate balance between these competing interests and should be approved.

II. BACKGROUND

The Motion is based on the following facts:[3]

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[2] The Trustee is not completely ruling out the possibility of settling the appeal in the future. The Trustee will address the appeal in the manner that best serves the interests of the bankruptcy estate and creditors.

[3] The following facts/proceedings are generally set forth in chronological order. However, given the complexity and overlap in the various litigation matters, it was sometimes necessary to group related facts/proceedings together. In those instances, some of the events discussed below are organized by topic rather than chronologically.

A. The Rajaee-Davis Dispute

This bankruptcy case arises primarily from a dispute between Rajaee and Davis regarding their ownership and management of TopDevz. Declaration of Jesse S. Finlayson filed herewith ("Finlayson Decl.") at ¶ 3.

A complete description of Rajaee's dispute with Davis regarding TopDevz is beyond the scope of this Motion. In very general terms, Davis and Rajaee dispute their relative ownership interests in TopDevz. *Id.* at ¶ 4. Rajaee contends that he owns 51% of TopDevz, whereas Davis contends he owns in excess of 95% of TopDevz. *Id.* In addition, Rajaee and Davis have accused each other of various misconduct related to TopDevz. *Id.* Davis also sought and was granted dissolution of TopDevz. *Id.*

B. The Arbitration

On or about February 23, 2021, Rajaee commenced an arbitration against Davis with the International Centre for Dispute Resolution, ICDR Case No. 01-21-9983. *Id.* at ¶ 5. In August 2021, Davis filed a counterclaim in the arbitration. *Id.*

On December 1, 2 and 13, 2021, the Arbitrator conducted a three-day evidentiary hearing on Davis' request to dissolve TopDevz. *Id.* at ¶ 6, Ex. A (Final Award) at 12.

On January 6, 2022, the Arbitrator issued Order No. 4 siding with Davis on the ownership issue. *Id.*, Ex. A at 19-21. Among other findings, Order No. 4 determined that Davis owned 95.308% of TopDevz and Rajaee owned just 4.692%. *Id.* The Arbitrator found that under the TopDevz Operating Agreement the parties' relative ownership interests were determined by their relative capital contributions to the LLC. *Id.*, Ex. A at 13-18. The Arbitrator also removed Rajaee as the Manager of TopDevz, ordered him to provide a full and complete accounting of TopDevz's finances dating back to 2017, and prohibited him from making or causing to be made any withdrawals or transfers from TopDevz without approval from Davis. *Id.*, Ex. A at 19-21.

On January 10, 2022, Davis filed an emergency motion in the Arbitration accusing Rajaee of transferring over $1 million out of TopDevz in violation of Order No. 4. *Id*., Ex. A at 22.

On January 13, 2022, the Arbitrator issued Order No. 5, finding that Rajaee had, in fact, violated Order No. 4. *Id*., Ex. A at 23-24. The Arbitrator ordered that Rajaee immediately return the funds improperly transferred out of TopDevz. *Id*. To the Trustee's knowledge, Rajaee has not complied with Order No. 5.

On April 4-7, 11-14, 21-22 and May 9, 2022, the Arbitrator conducted further hearings relating to the final accounting for TopDevz, LLC and Davis' first counterclaim for relief. *Id*., Ex. A at 25-28. The Arbitrator then issued a Partial Final Award on June 21, 2022. *Id*., Ex. A at 1, 49-51.

Before the Arbitrator issued a final award, Rajaee filed a Petition to Vacate the preliminary order in Ashkan *Rajaee v. Tyler Davis*, Superior Court of California, County of San Diego, Case No. 37-2022-00001968-CU-PA-CTL.

On March 17, 2022, the state court denied Rajaee's petition.

On March 20, 2023, the Arbitrator conducted a final evidentiary hearing with respect to the parties' tort claims and counterclaims and their respective claims for compensatory damages. *Id*., Ex. A at 2, 51-58.

C. Davis Prevails in the Arbitration

On or about May 12, 2023, the Arbitrator issued a 68-page Final Award (the "Arbitration Award"). The Arbitrator reaffirmed her prior decision that Davis owned more than 95% of TopDevz, found that Davis had the right to dissolve TopDevz, and determined that Rajaee had improperly taken millions out of TopDevz. *Id*., Ex. A at 64-68. Based on these findings, the Arbitrator awarded Davis $1,704,415.64 against Rajaee, and awarded TopDevz an additional $7,670,151.00 against Rajaee. *Id*.

The Arbitration Award was highly critical of Rajaee's testimony. *Id*., Ex A at 33.

D. Davis and TopDevz Obtain Court Confirmation of the Arbitration Award

On or about June 6, 2023, Davis and TopDevz filed a Petition to Confirm the Arbitration Award with the San Diego Superior Court in *Tyler Davis v. Ashkan Rajaee*, San Diego County Superior Court Case No. 37-2022-00026691-CU-PA-CTL. *Id.* at ¶¶ 7-8. Rajaee opposed the Petition. *Id.* at ¶ 8.

On or about August 15, 2023, the state court entered a Judgment confirming the Arbitration Award. *Id.* at ¶ 9.

E. Rajaee Appeals Confirmation of the Arbitration Award

Rajaee believes the arbitration process was unfair and disputes many of the Arbitrator's findings in the Arbitration Award.

On or about October 6, 2023, Rajaee filed an appeal of the Judgment confirming the Arbitration Award, Cal. Ct. of Appeal Case No. D082966 (4th App. Dist.). *Id.* at ¶ 10.

Based on information provided by Rajaee's appellate counsel, the Trustee understands that Rajaee intends to make three primary arguments on appeal. *Id.* at ¶ 11. **First**, the Arbitrator exceeded her authority (i) by ruling on Davis' involuntary dissolution claim (an issue reserved by statute and the parties' Operating Agreement to the court), (ii) by ruling on Davis' voluntary dissolution claims, which he never pled (and which drastically changed the nature of his case, thereby catching Rajaee unprepared to defend against that discrete claim), and (iii) by awarding any relief to TopDevz (since Davis never pled any derivative claims or sought any relief on its behalf). *Id.* **Second**, the Arbitrator failed to disqualify herself as was mandatory when she failed to timely disclose or update professional relationships that would cause a reasonable person to question her impartiality. *Id.* **Third**, Rajaee's rights were substantially prejudiced by the Arbitrator's refusal to postpone the hearing to permit Rajaee time to conduct discovery to rebut Davis' unpled claims.

This appeal is currently stayed. *Id.* at ¶ 12.

F. The Numerous State Court Lawsuits, Including the Lintz/Talentcrowd Case

Rajaee and Davis also filed several other state court cases in San Diego County and Sacramento County. *Id.* at ¶ 13.

On or about April 1, 2022, Rajaee filed San Diego Superior Court Case No. 37-2022-00012247-CU-BT-CTL against Lintz, Talentcrowd, and several related parties. *Id.* at ¶ 14. In that lawsuit, Rajaee asserted four causes of action: (1) unfair competition (Lanham Act), (2) defamation per se, (3) unfair competition (Cal. Bus. & Prof. Code), and (4) breach of fiduciary duty. In very general terms, Rajaee asserts that Lintz is a former TopDevz employee who formed Talentcrowd to compete with TopDevz and has made false statements about Rajaee. *Id.*

G. The Prepetition Fraudulent Transfer Action

On or about April 22, 2022, Davis and TopDevz filed San Diego County Superior Court Case No. 37-2022-00015126 (the "Prepetition Fraudulent Transfer Action"). *Id.* at ¶ 15. In that case, Davis and TopDevz seek to avoid Rajaee's transfer of the real property located at 6625 Muirlands Drive, San Diego, California 92037 (the "Muirlands Property") to Nima Akhbari, the trustee of two (2) Qualified Personal Residence Trusts (the "QPRTs"), under the California Uniform Voidable Transactions Act. *Id.*

Both Davis and TopDevz subsequently recorded Notices of Pendency of Action related to the Prepetition Fraudulent Transfer Action against title to the Muirlands Property. *Id.* at ¶ 16.

H. The Third-Party Actions

The Debtor is also involved in several additional lawsuits against parties not affiliated with Davis and/or TopDevz.

1. The SeaNet Lawsuit

On or about November 1, 2022, Rajaee filed *Ashkan Rajaee v. SeaNet Company, Inc. et al.*, Orange County Superior Court Case No. 30-2022-01290103-CU-SL-CJC (the "SeaNet Lawsuit"). *Id.* at ¶ 17. In that case, Rajaee asserts various claims related to his fractional ownership of a yacht. *Id.* In essence, Rajaee claims the yacht was not properly managed and maintained. *Id.* The defendants claim that Rajaee breached his written agreement with respect to the yacht and failed to pay his share of the operating expenses. *Id.*

The SeaNet Lawsuit is subject to the settlement discussed below.

2. The Kresses Lawsuit

On or about June 20, 2022, Rajaee filed *Ashkan Rajaee v. Kresses and Piasecki Legal PC, et al.*, United States District Court Case No. 3:22-cv-00895-WQH-MMP (S.D. Cal.) (the "Kresses Lawsuit"). *Id.* at ¶ 18. In this action, Rajaee contends that the immigration attorney representing Rajaee at the time TopDevz was formed committed malpractice because she sent Rajaee a form limited liability operating agreement that Rajaee used to create TopDevz. *Id.* According to Rajaee, the form agreement did not accurately reflect the terms of his actual agreement with Davis and caused or contributed to him losing the arbitration. *Id.*

The Kresses Lawsuit is the subject of the settlement discussed below.

3. The Weinberg Lawsuit and Appeal

On or about January 10, 2023, Rajaee filed *Ashkan Rajaee v. Weinberg Gonser Frost LLP et al.*, Los Angeles Superior Court Case No. 23SMCV00121 (the "Weinberg Lawsuit"). *Id.* at ¶ 19. The Trustee understands the defendants in this action are Rajaee's initial attorneys in the arbitration that Rajaee contends committed malpractice. *Id.*

On or about June 9, 2023, this case was ordered to arbitration. *Id.* at ¶ 20. Rajaee apparently failed or refused to commence arbitration. *Id.*

On or about February 26, 2024, the state court dismissed this case for lack of prosecution. *Id.* at ¶ 21.

On April 18, 2024, Rajaee appealed this dismissal, Cal. Ct. of Appeal Case No. No. B338351 (2nd App. Dist.). *Id.* at ¶ 22. This appeal is currently pending. *Id.*

4. The Lavine Lofgren Lawsuit

On or about March 16, 2023, Rajaee filed *Ashkan Rajaee v. Lavine Lofgren Morris and Engelberg LLP, et al.*, San Diego Superior Court Case No. 37-2023-00011085-CU-PN-CTL (the "Lavine Lofgren Lawsuit"). *Id.* at ¶ 23. Rajaee asserts claims against these defendants for professional negligence, breach of contract and breach of fiduciary duty relating to tax, and certified public accounting services the defendants provided with respect to Rajaee's ownership in TopDevz. *Id.*

This case is pending. *Id.* at ¶ 24. There is a hearing on the defendants' demurrer and motion to strike on January 3, 2025. *Id.*

I. The Davis/TopDevz Judgment Liens on the Debtor's Third-Party Actions

Prior to bankruptcy, Davis and TopDevz filed Notices of Lien under California Code of Civil Procedure § 708.410 *et seq.* against the SeaNet Lawsuit, the Kresses Lawsuit, the Weinberg Lawsuit, and the Lavine Lofgren Lawsuit. *Id.* at ¶ 25.

J. The Davis/TopDevz Judgment Lien(s) on Rajaee's Real Property

On or about February 7, 2024, Davis and TopDevz recorded an Abstract of Judgment as Document No. 2024-0031408 in the Official Records of the County Recorder of the County of San Diego. *Id.* at ¶ 26.

K. Rajaee Files Three District Court Actions Challenging the Arbitration Award

Shortly before and after Rajaee filed for chapter 11 protection with this Court, Rajaee commenced three separate federal lawsuits in the United States District Court for the Southern District of California:

1. The Conspiracy Lawsuit

On January 2, 2024, Rajaee filed *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00001-RSH-KSC (S.D. Cal.). *Id.* at ¶ 27. In that case, Rajaee alleged seventeen claims against more than 40 defendants. *Id.* The defendants include Davis, TopDevz, several former TopDevz employees and customers, and numerous attorneys involved in the various lawsuits. *Id.*

As summarized by District Judge Robert S. Huie: "The Complaint alleges that in August 2023, after the arbitration and state trial court proceedings, Plaintiff 'discovered evidence … which demonstrates that the entire judgment from San Diego was procured from manifest extrinsic fraud practiced on RAJAEE by DAVIS and his coconspirators.'" *Id.* at ¶ 28, Ex. B at 4:15-19. According to the District Court, "[t]he Complaint broadly alleges that the fraud involved 'identity theft,' 'insert[ing] bogus tax documents into the record,' and Davis's 'perjured testimony.'" *Id.* at ¶ 28, Ex. B at 4:19-5:1 (internal citations omitted).

> Many of Plaintiff's allegations are conclusory or generalized, or appear to be allegations of wrongdoing unconnected to Plaintiff's claims. However, Plaintiff does allege that Davis used Plaintiff's "personal identifying information … to cause the falsification of the IRS capital tax accounts within TOPDEVZ partnership returns for the years 2017, 2018, 2019, 2020, and 2021" and "unlawfully file[d] false IRS documents and fraudulent court pleadings using [Plaintiff's] personal identifying information without [Plaintiff's] consent." Plaintiff also alleges that Davis committed perjury when he testified during the arbitration that he had invested $750,000 in TopDevz when the company was founded in 2017. Plaintiff now claims that in fact, Davis had transferred the $750,000 funds from another business, an LLC of which Davis was a member and which Plaintiff has also named as a defendant. Plaintiff continues to allege, as he did during the arbitration, that Plaintiff had a "rightful 51% personal property interest" in TopDevz.

Id. at ¶ 28, Ex. B at 5:1-13. "As for relief, Plaintiff ask[ed] [the District] Court to vacate the state court's judgment affirming the arbitral award …; to declare that the judgment is 'void and unenforceable'; and to enjoin Defendants from collecting on or enforcing the judgment." *Id.* at ¶ 28, Ex. B at 6:1-4.

On April 11, 2024, the District Court entered an order dismissing this action under the *Rooker–Feldman* doctrine:

> Plaintiff has an appeal pending before the California Court of Appeal. This federal lawsuit is a de facto appeal of the same arbitration award and state court judgment. Plaintiff's federal claims are barred by the *Rooker–Feldman* doctrine. The Court lacks subject matter jurisdiction over Plaintiff's claims and dismisses the case without prejudice.

Id. at 11:16-19. The following day, the District Court entered Judgment dismissing the case.

On April 29, 2024, Rajaee filed a Motion for Recusal (the "Motion for Recusal") and on April 30, 2024, Rajaee filed a Motion to Alter Judgment (the "Motion to Alter Judgment"). *Id.* at ¶ 29. In the Motion for Recusal, Rajaee argued that Judge Huie was biased against him because Rajaee is a foreign national (Canadian). *Id.* In the Motion to Alter Judgment, Rajaee challenged the District Court's dismissal under the *Rooker–Feldman* doctrine. *Id.*

Both Motions were pending when the Debtors' bankruptcy was converted from chapter 11 to chapter 7. *Id.* at ¶ 30. This case is currently stayed at the Trustee's request. *Id.*

2. The Tax Fraud Lawsuit

On March 22, 2024, Rajaee filed a second federal lawsuit: *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00549-RSH-KSC (S.D. Cal.). *Id.* at ¶ 31. In that action, Rajaee claims that "Davis and non-party Joshua Lintz used Plaintiff's name, social security number and address to willfully aid in the preparation and filing of an IRS 1099 document that is materially fraudulent and false." *Id.* For reasons that are unclear, Rajaee also sued the attorneys representing Davis and TopDevz. *Id.*

In essence, Rajaee claims that TopDevz submitted certain tax forms with the Internal Revenue Service improperly attributing income to Rajaee that resulted in the government imposing $915,029 in federal tax liability against Rajaee. *Id.* at ¶ 32. The Trustee understands that the income attributed to Rajaee relates, in whole or in part, to the approximately $7 million that the Arbitrator found Rajaee misappropriated from TopDevz. *Id.* Rajaee contends that the Arbitrator's ruling is incorrect and that these were legitimate TopDevz business expenses. *Id.*

3. The Trade Secret Lawsuit

Also on March 22, 2024, Rajaee filed a third federal lawsuit: *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00550-RSH-KSC (S.D. Cal.). *Id.* at ¶ 33. In this case, Rajaee asserts three causes of action for: (1) violation of the Defend Trade Secrets Act, (2) trade secret misappropriation, and (3) accounting. Rajaee contends that Davis used his control of TopDevz based on the Arbitrator's (allegedly wrong) ruling to transfer various trade secrets to Talentcrowd, a company owned and controlled by Lintz (a former TopDevz employee). *Id.*

Both subsequent cases were also assigned to District Judge Huie. *Id.* at ¶ 34. The defendants in these cases filed Motions to Dismiss under the *Rooker–Feldman* doctrine. *Id.* These motions were pending when the Debtors' bankruptcy was converted to chapter 7. *Id.* These cases are currently stayed at the Trustee's request. *Id.*

L. The Debtors' Chapter 11 Bankruptcy Filing

On February 26, 2024 (the "Petition Date"), the Debtors filed bankruptcy under chapter 11 of the Bankruptcy Code with this Court. ECF No. 1. The Debtors' Schedules listed various claims and lawsuits valued at $75 million. *Id.* at pg. 25 of 60.

M. The Rajaee Adversary Proceeding

Almost immediately, Rajaee commenced additional litigation in this Court.

On April 19, 2024, Rajaee filed *Ashkan Rajaee v. Tyler Davis, at al.*, United States Bankruptcy Court Adv. No. 24-90033-CL (Bankr. S.D. Cal.). In this adversary proceeding, Rajaee claims that Davis and TopDevz committed identity theft because they used Rajaee's name, social security number and address to prepare false and fraudulent tax documents. Adv. ECF No. 1. According to Rajaee, it is not necessary to actually impersonate another person to commit identify theft under California law. Rajaee contends that the mere act of using someone's name to commit an illegal act is identify theft. The allegations in the adversary proceeding largely overlap with the tax fraud case filed in District Court.

N. Conversion of the Debtors' Bankruptcy to Chapter 7

On May 9, 2024, this Court entered an order converting the Debtors' bankruptcy case from chapter 11 to chapter 7, and the Trustee was subsequently appointed. ECF No. 37. In the Conversion Order, this Court noted that Rajaee's "litigation history … suggests bad faith." *Id.* at pg. 4 of 5.

O. The Akhbari Probate Claim and the Davis/TopDevz Postpetition Fraudulent Transfer Action

On or about February 28, 2024, Davis and TopDevz submitted a creditor's claim against Nima Akhbari's estate (the "Akhbari Probate Claim"). Finlayson Decl. at ¶ 35. Davis and TopDevz sought to impose liability on Mr. Akhbari's estate based on his actions as the trustee of the QPRTs. *Id.*

On or about April 18, 2024, Nora Akhbari, in her capacity as the administrator of the estate of Nima Akhbari, rejected the Akhbari Probate Claim. *Id.* at ¶ 36.

On or about July 10, 2024, Davis and TopDevz filed San Diego County Superior Court Case No. 24CU000435C against Nora Akhbari, as the administrator of the estate of Nima Akhbari (the deceased trustee of the QPRTs) (the "Postpetition Fraudulent Transfer Action"). *Id.* at ¶ 37. In the Postpetition Fraudulent Transfer Action, Davis and TopDevz allege that the transfer of the Muirlands Property to the QPRTs was a fraudulent transfer under the California Uniform Voidable Transactions Act. *Id.*

P. The Davis/TopDevz Proofs of Claim and the Debtors' Objection

On May 6, 2024, Davis and TopDevz filed Proofs of Claim in the Debtors' bankruptcy case. Proof of Claim Nos. 8-2 & 9-2. Davis asserted a general unsecured claim in the amount of $1,748,776.84 and TopDevz asserted a general unsecured claim in the amount of $7,869,785.04. Both Proof of Claims were based on the confirmed Arbitration Award.

On August 7, 2024, the Debtors filed Objections to the Davis Proof of Claim and the TopDevz Proof of Claim (the "Debtors' Claim Objections"). ECF Nos. 88-89.

The Debtors' Claim Objections are currently scheduled for hearing before this Court on October 28, 2024.

Q. The Non-Dischargeability Action

On August 9, 2024, Davis and TopDevz filed a Complaint against the Debtors seeking to determine the dischargeability of the claims asserted in the Davis Proof of Claim and the TopDevz Proof of Claim (based on the Arbitration Confirmation Judgment) pursuant to 11 U.S.C. §§ 523(a)(2), (a)(4), and (a)(6), and to deny the Debtors' discharge pursuant to 11 U.S.C. § 727(a)(2), (a)(3), (a)(4), and (a)(5), U.S.B.C. Adv. No. 3:24-ap-90066 (Bankr. S.D. Cal.) (the "Non-Dischargeability Action"). Adv. ECF No. 1.

On September 9, 2024, the Debtors filed an Answer in the Non-Dischargeability Action. Adv. ECF No. 5.

There is currently a status conference scheduled in the Non-Dischargeability Action on November 4, 2024.

R. The Proposed Settlements

The Trustee has now entered into four related Settlement Agreements. As explained in detail below, these Settlement Agreements taken together will resolve the vast majority the estate's litigation while preserving the Debtor's appeal of the Arbitration Award in the arbitration.

1. The Davis/TopDevz Settlement

On or about October 15, 2024, the Trustee entered into a Settlement Agreement with Davis and TopDevz (the "Davis/TopDevz Settlement Agreement"). A true and accurate copy of the Davis/TopDevz Settlement Agreement is attached to the Barclay Declaration as **Exhibit A**. The Davis/TopDevz Settlement Agreement also contains a Unanimous Written Consent as an exhibit to the agreement for which the Trustee also seeks Court approval.

The material terms of the Davis/TopDevz Settlement Agreement are as follows:

- The Agreement is subject to this Court's approval pursuant to Federal Rule of Bankruptcy Procedure 9019.
- Upon approval, Davis and TopDevz will pay the Trustee $100,000.00.
- The Trustee will dismiss the estate's pending lawsuits against Davis, TopDevz, and several related defendants with prejudice, **<u>except</u>** (a) the appeal of the Judgment confirming the Arbitration Award and any proceedings on remand; and (b) two pending state court actions related to the arbitration and the dissolution of TopDevz.
- The parties agree that the Prepetition Fraudulent Transfer Action is property of the Debtors' bankruptcy estate. At the Trustee's option, Davis and TopDevz will either (a) dismiss the Prepetition Fraudulent Transfer Action without prejudice; (b) assign the Prepetition Fraudulent Transfer Action to the Trustee; or (c) consent to the Trustee substituting into the action as the real party-in-interest under Federal Rule of Bankruptcy Procedure 6009.
- The parties agree that (a) the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action are property of the Debtors' bankruptcy estate; (b) the filing of the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action violated the automatic stay; and (c) the Trustee is the real party-in-interest with respect to such claims. The Trustee waives and releases any alleged claims for damages and sanctions based on Davis' and TopDevz's filing of the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action.
- At the Trustee's option, Davis and TopDevz shall either (a) dismiss without prejudice the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action; (b) assign such claims and actions to the Trustee; or (c) consent to the Trustee substituting into such claims and

actions as the real party-in-interest under Federal Rule of Bankruptcy Procedure 6009.

- The Davis Proof of Claim and the TopDevz Proof of Claim and any claims asserted by Davis and TopDevz in any amended proofs of claim shall be treated solely as general non-priority unsecured claims for all purposes in the Debtors' bankruptcy case. Davis and TopDevz agree that (a) their judgment lien(s) on the Muirlands Property and the Genter Property shall be deemed avoided under 11 U.S.C. § 547 and preserved for the benefit of the bankruptcy estate under 11 U.S.C. § 551; and (b) waive and release any and all purported liens in any other property of the Debtors' bankruptcy estate, including, without limitation, the SeaNet Lawsuit, the Kresses Lawsuit, the Weinberg Lawsuit, and the Lavine Lofgren Lawsuit.
- The parties exchange mutual general releases, including a waiver of California Civil Code § 1542 (excluding the appeal of the Judgment confirming the Arbitration Award and the related lawsuits).
- To eliminate any question about Davis' authority to sign the Agreement on TopDevz's behalf, the Trustee and Davis signed the Unanimous Written Consent as the sole members of the LLC authorizing him to sign.

The financial impact of the proposed Davis/TopDevz Settlement Agreement on the estate is as follows: The Trustee will receive $100,000.00 and will not be required to incur additional legal fees on the matters described above. The lien release will allow the Trustee to settle the Kresses and SeaNet Lawsuits and retain the settlement payments (described below). The Davis/TopDevz Settlement Agreement preserves the estate's rights, claims, and defenses in the appeal of the Judgment confirming the Arbitration Award.

2. The Talentcrowd/Lintz Settlement

On or about September 26, 2024, the Trustee entered into a Settlement Agreement with Talentcrowd, Lintz, Melissa Garcia, Amanda Frye, Purdy & Bailey, LLP, Micah L. Bailey, Jonathan Gerber, Miller Miller Gerber, LLP, and Skan Technologies Inc. (the "Talentcrowd/Lintz Settlement Agreement"). A true and accurate copy of the Talentcrowd/Lintz Settlement Agreement is attached to the Barclay Declaration as **Exhibit B**.

The material terms of the Talentcrowd/Lintz Settlement Agreement are as follows:

- The Agreement is subject to this Court's approval pursuant to Federal Rule of Bankruptcy Procedure 9019.
- Upon approval, Talentcrowd will pay the Trustee $100,000.00.
- The Trustee will dismiss the estate's pending lawsuits against Lintz, Talentcrowd, and several related defendants with prejudice.
- The parties exchange mutual general releases, including a waiver of California Civil Code § 1542.

The financial impact of the proposed Talentcrowd/Lintz Settlement Agreement on the estate is as follows: The Trustee will receive $100,000.00 and will not be required to incur additional legal fees on the matters described above.

3. The Kresses Settlement

On or about September 30, 2024, the Trustee entered into a Settlement Agreement with Kresses and Piasecki Legal PC and Kolette Kresses (the "Kresses Settlement Agreement"). A true and accurate copy of the Kresses Settlement Agreement is attached to the Barclay Declaration as **Exhibit C**.

The material terms of the Kresses Settlement Agreement are as follows:

- The Agreement is subject to this Court's approval pursuant to Federal Rule of Bankruptcy Procedure 9019.

- Upon approval, Kresses and Piasecki Legal PC and Kolette Kresses will pay the Trustee $30,000.00.
- The parties will execute and file a Stipulation dismissing the Kresses Lawsuit in its entirety with prejudice.
- The parties exchange mutual general releases, including a waiver of California Civil Code § 1542.

The financial impact of the proposed Kresses Settlement Agreement on the estate is as follows: The Trustee will receive $30,000.00 and will not be required to incur additional legal fees on the Kresses Lawsuit.

4. The SeaNet Settlement

On or about October 1, 2024, the Trustee entered into a Settlement Agreement with SeaNet Company, Inc. and Jensens Bay, LLC (the "SeaNet Settlement Agreement"). A true and accurate copy of the SeaNet Settlement Agreement is attached to the Barclay Declaration as **Exhibit D**.

The material terms of the SeaNet Settlement Agreement are as follows:

- The Agreement is subject to this Court's approval pursuant to Federal Rule of Bankruptcy Procedure 9019.
- Upon approval, SeaNet Company, Inc. and Jensens Bay, LLC will pay the Trustee $159,919.17.
- The Trustee will file a Request for Dismissal, with prejudice, of the SeaNet Lawsuit in its entirety.
- The parties exchange mutual general releases, including a waiver of California Civil Code § 1542.

The financial impact of the proposed SeaNet Settlement Agreement on the estate is as follows: The Trustee will receive $159,919.17 and will not be required to incur additional legal fees on the SeaNet Lawsuit.

III. ARGUMENT

Federal Rule of Bankruptcy Procedure 9019(a) provides that: "On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a). Similarly, Bankruptcy Code § 363(b)(1) states: "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1).

Compromises and settlements in bankruptcy should be approved if they are "fair and equitable." *Martin v. Kane (In re A&C Props.)*, 784 F.2d 1377, 1381 (9th Cir. 1986). This Court should consider the following factors in considering whether a proposed settlement is fair and equitable:

> (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; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

In re A&C Props., 784 F.2d at 1381; *Woodson v. Fireman's Fund Ins. Co. (In re Woodson)*, 839 F.2d 610, 620 (9th Cir. 1988).

Basic to this determination is consideration of the "likely rewards of litigation." *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968). The Bankruptcy Court is not required to decide the numerous questions of law and facts raised by the litigation. Instead, the Bankruptcy Court's responsibility is only to "canvass the issues to see whether the settlement 'falls below the lower point in the range of reasonableness.'" *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 613 (2d Cir. 1983).

Here, each of the proposed settlements meets these criteria.

A. The Court Should Approve the Proposed Settlements

The Davis/TopDevz and Talentcrowd/Lintz settlements are not contractually conditioned on each other, but should be viewed together. Barclay Decl. at ¶ 10. Taken together, these two settlements will resolve Rajaee's collateral attacks on the Judgment confirming the Arbitration Award. *Id.* These settlements should be approved under the *A&C Props.* factors. First, the Trustee believes the probability of success on these claims is low. *Id.* As the District Court already determined in Case No. 24-CV-00001-RSH-KSC, these lawsuits are *de facto* appeals and/or improper collateral attacks on the Arbitration Award. *Id.* Second, given the low likelihood of success on the merits, the ability to collect is not a substantial factor in the analysis. Third, the complexity and expense of the litigation weighs heavily in favor of approving the settlements. *Id.* As explained above, the cost of maintaining and prosecuting all of Rajaee's prepetition lawsuits is unsustainable. *Id.* Prosecuting all of these cases to judgment would likely cost millions of dollars in legal fees that the estate does not have. *Id.* These claims are simply too expensive to maintain or prosecute. *Id.* Finally, the settlements are in the "paramount interests" of creditors and the estate. *Id.* It makes absolutely no sense for the Trustee to spend the estate's limited resources blindly pursuing collateral attacks on the Arbitration Award that have little or no chance of success. *Id.* The Davis/TopDevz and Talentcrowd/Lintz settlements not only include the payment of $200,000.00 to the Trustee, but the Davis/TopDevz Settlement Agreement also includes a release of the liens on the SeaNet Lawsuit and the Kresses Lawsuit—which effectively allows the Trustee to settle those cases and retain the settlement proceeds for the benefit of the bankruptcy estate. *Id.* Approval of the settlements is an important step towards allowing the Trustee to effectively administer this estate.

In connection with the Davis/TopDevz Settlement Agreement, the Trustee also seeks approval of the Trustee's consent to Davis signing that agreement on behalf of TopDevz and the Trustee's execution of the Unanimous Written Consent. As explained above, the Arbitrator's ruling determining that Davis owns in excess of 95% of TopDevz and removing Rajaee as the Manager of TopDevz and replacing him with Davis is subject to the pending appeal. In light of the pending appeal, the Unanimous Written Consent is intended to eliminate any uncertainty regarding Davis' authority to sign the Davis/TopDevz Settlement Agreement on TopDevz's behalf. Currently, the

Trustee and Davis are the sole members of TopDevz. As such, they have the collective authority to bind the entity. The Trustee's grant of consent and the Trustee's execution of the Unanimous Written Consent constitute a reasonable use of estate property (the estate's interest in TopDevz) that should be approved under Bankruptcy Code § 363(b)(1).

The Kresses Settlement Agreement also satisfies the *A&C Props.* factors. First, the Trustee believes that the malpractice claims against the Kresses defendants are weak. *Id.* at ¶ 12. As the Trustee understands the allegations, Kresses merely provided Rajaee with a form Operating Agreement that Rajaee later used in connection with the formation of TopDevz. *Id.* The Trustee does not believe that it was reasonable for Rajaee to sign the Operating Agreement without filling in all of the blanks and ensuring that it represented his actual agreement with Davis. *Id.* Second, collecting from Kresses will be difficult. The Trustee has been informed that Kresses is semi-retired and resides in New York. She apparently does not have malpractice insurance. *Id.* Third, the litigation is actually fairly complicated. *Id.* The Trustee would need to prove both that Kresses committed malpractice and that the outcome of the arbitration would have been different absent the alleged malpractice. *Id.* Given the Arbitrator's highly critical findings regarding Rajaee's testimony and other factors, the Trustee believes it would be difficult to convince a judge or jury that Rajaee would have prevailed in the arbitration but for the alleged malpractice. *Id.* Finally, the proposed settlement is in the best interests of creditors. *Id.* Under the settlement, the Trustee will receive $30,000.00 and resolve litigation that is a financial drain on the estate. *Id.*

Finally, the SeaNet Settlement Agreement should also be approved under the *A&C Props.* factors. First, the proposed settlement is reasonable based on the merits. The Trustee is informed that Rajaee's fractional interest in the yacht is worth approximately $225,000.00. *Id.* at ¶ 14. The issue in the SeaNet Lawsuit is whether the defendants have the right to offset various fees and unpaid maintenance amounts from the value of Rajaee's interest. *Id.* Based on the offsets, the defendants contend that Rajaee is only entitled to $80,974.53. Given this range, the Trustee believes the $159,919.17 settlement amount is reasonable. *Id.* Second, even if the Trustee prevailed, collecting against the entities would necessarily be both timing-consuming and costly. *Id.* Third, the complexity and expense of the litigation favors approval of the proposed settlement. *Id.* The agreements in dispute are complicated and not entirely clear. *Id.* The issue of whether the yacht was properly maintained would likely require costly expert testimony. *Id.* Finally, the proposed settlement is in the best interests of creditors. *Id.* Under the settlement, the Trustee will receive $159,919.17 and resolve the litigation and avoid incurring additional legal expenses. *Id.*

B. Rajaee's Potential Objection and/or Overbid

The Trustee's counsel has engaged in extensive discussions with Rajaee about the pending litigation and possible settlements. Based on these discussions, the Trustee anticipates Rajaee will oppose this Motion.

As the Trustee understands it, Rajaee has asserted three primary arguments: First, Rajaee contends any agreement between the Trustee and Davis/TopDevz would violate the Racketeer Influenced and Corrupt Organizations Act. Rajaee claims Davis and TopDevz engaged in "criminal conduct" and that any agreement between the Trustee and these parties would "further" that alleged criminal conduct. Second, Rajaee also contends that accepting a settlement payment from Davis and/or TopDevz would amount to money laundering in violation of various state and federal statutes. Third, Rajaee contends that the arbitration and these bankruptcy proceedings violate his civil rights under the United States Constitution. Rajaee may also assert additional or different objections.

The Trustee has considered Rajaee's arguments and does not believe they provide any legitimate grounds to deny approval the proposed Settlement Agreements. The Trustee is prepared to address any arguments made in opposition by Rajaee in the Trustee's Reply Brief.

The Trustee also understands that Rajaee may submit a formal alternative proposal to purchase some or all of the claims covered by the Settlement Agreements.[4] The Settlement Agreements were entered into in good faith and are not subject to overbidding. At the same time, the Ninth Circuit Bankruptcy Appellate Panel has made it clear that trustees and bankruptcy courts must consider potential overbids when weighing approval of proposed settlements under Rule 9019(a):

> When confronted with a motion to approve a settlement under Rule 9019(a), a bankruptcy court is obliged to consider, as part of the "fair and equitable" analysis, whether any property of the estate that would be disposed of in connection with the settlement might draw a higher price through a competitive process and be the proper subject of a section 363 sale.

In re Mickey Thompson Ent. Grp., Inc., 292 B.R. 415, 422 (B.A.P. 9th Cir. 2003). In these circumstances, "a trustee's fiduciary duty to maximize the assets of the estate trumps any contractual obligation that a trustee arguably may incur in the course of making an agreement that is not enforceable unless it is approved by the court." *Id.* at 421.

> Everyone who deals with a bankruptcy trustee in a transaction that is not in the ordinary course of business is charged with knowledge that the law may require court approval and that a trustee has an obligation to present all relevant facts to the court, including whether there is a more attractive solution than that which the trustee has negotiated.

Id. "Whether to impose formal sale procedures is ultimately a matter of discretion that depends upon the dynamics of the particular situation." *Id.* at 422.

If Rajaee makes a formal proposal to acquire the estate's claims in response to the Motion, the Trustee will bring it to the Court's attention and seek direction on appropriate overbid procedures, if any.

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[4] Rajaee has already submitted an informal proposal to purchase some or all of the state's claims using funds from the Debtors' homestead exemption.

IV. CONCLUSION

For these reasons, the Trustee requests that this Court enter an Order approving the Settlement Agreements and the Unanimous Written Consent attached as Exhibit A to the Davis/TopDevz Settlement Agreement.

DATED: October 23, 2024

FINLAYSON TOFFER ROOSEVELT & LILLY LLP

By: */s/ Jesse S. Finlayson*
Jesse S. Finlayson

Attorneys for Christopher R. Barclay, Chapter 7 Trustee

DECLARATION OF CHRISTOPHER R. BARCLAY

I, Christopher R. Barclay, declare as follows:

1. I am the chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee. I submit this Declaration in support of the foregoing Motion. Capitalized terms in this Declaration that are not otherwise defined shall have the meaning given to them in the forgoing Memorandum of Points and Authorities. If called as a witness, I could and would testify accurately and competently to the contents of this Declaration.

2. The factual information provided in this Declaration was obtained primarily from (a) Ashkan Rajaee's testimony at the creditors' meeting in this chapter 7 case; and (b) my review of documents provided to me by Rajaee, creditors in this case, or obtained from public records.

3. Based on these sources of information, the facts stated in the Motion are true and correct to the best of my knowledge and belief.

4. A true and accurate copy of the proposed Settlement Agreement dated October 15. 2024 with Tyler Davis and TopDevz, LLC is attached to this Declaration as **Exhibit A**.

5. A true and accurate copy of the proposed Settlement Agreement dated September 26, 2024, with Talentcrowd, LLC, Joshua Lintz, Melissa Garcia, Amanda Frye, Purdy & Bailey, LLP, Micah L. Bailey, Jonathan Gerber, Miller Miller Gerber, LLP, and Skan Technologies Inc. is attached to this Declaration as **Exhibit B**.

6. A true and accurate copy of the proposed Settlement Agreement dated September 30, 2024, with Kresses and Piasecki Legal PC and Kolette Kresses is attached to this Declaration as **Exhibit C**.

7. A true and accurate copy of the proposed Settlement Agreement dated October 1, 2024, with SeaNet Company, Inc. and Jensens Bay, LLC is attached to this Declaration as **Exhibit D**.

8. I believe the proposed Davis/TopDevz Settlement Agreement is fair and equitable and that approval by this Court is in the best interests of the estate and creditors.

9. I believe the proposed Talentcrowd/Litz Settlement Agreement is fair and equitable and that approval by this Court is in the best interests of the estate and creditors.

10. The Davis/TopDevz and Talentcrowd/Lintz settlements are not contractually conditioned on each other. However, I believe they should be viewed together. Taken together, these two settlements will resolve Rajaee's collateral attacks on the Judgment confirming the Arbitration Award. In my judgment, these settlements should be approved for the following reasons: First, based on the advice of counsel and my experience, I believe the probability of success on these claims is low. The District Court already determined in Case No. 24-CV-00001-RSH-KSC that these lawsuits are de facto appeals and/or improper collateral attacks on the Arbitration Award. Second, given the low likelihood of success on the merits, I believe the ability to collect is not a substantial factor in the analysis. Third, the complexity and expense of the litigation weighs heavily in favor of approving the settlements. I believe the cost of maintaining and prosecuting all of Rajaee's prepetition lawsuits is unsustainable for the estate. In my experience, prosecuting all of these cases to judgment would likely cost millions of dollars in legal fees that the estate does not have. These claims are simply too expensive to maintain or prosecute. Finally, I believe the settlements are in the "paramount interests" of creditors and the estate. In my view, it makes absolutely no sense to spend the estate's limited resources blindly pursuing collateral attacks on the Arbitration Award that have little or no chance of success. The Davis/TopDevz and Talentcrowd/Lintz settlements not only include the payment of $200,000.00 to the estate, but the Davis/TopDevz Settlement Agreement also includes a release of the liens on the SeaNet Lawsuit and the Kresses Lawsuit. This release will

effectively allow me to settle the SeaNet Lawsuit and the Kresses Lawsuit and retain the settlement proceeds for the benefit of the bankruptcy estate.

11. I believe the proposed Kresses Settlement Agreement is fair and equitable and that approval by this Court is in the best interests of the estate and creditors.

12. In my judgment, the Kresses Settlement Agreement should be approved for the following reasons: First, based on the advice of counsel and my experience, I believe that the malpractice claims against the Kresses defendants are weak. As I understand the allegations, Kresses merely provided Rajaee with a form Operating Agreement, which I understand Rajaee later used in connection with the formation of TopDevz. I do not believe that it was reasonable for Rajaee to sign the Operating Agreement without filling in all of the blanks and ensuring that it represented his actual agreement with Davis. Second, collecting from Kresses will be difficult. My counsel has been informed that Kresses is semi-retired and resides in New York. She apparently does not have malpractice insurance. Third, the litigation is actually fairly complicated. Finally, the proposed settlement is in the best interests of creditors. Under the settlement, the estate will receive $30,000.00 and resolve litigation that is a financial drain on the estate.

13. I believe the proposed SeaNet Settlement Agreement is fair and equitable and that approval by this Court is in the best interests of the estate and creditors.

14. In my judgment, the SeaNet Settlement Agreement should be approved for the following reasons: First, the proposed settlement is reasonable based on the merits. Based on my counsel's communications with defense counsel, I understand that Rajaee's fractional interest in the yacht is worth approximately $225,000.00. As explained to me, the issue in the SeaNet Lawsuit is whether the defendants have the right to offset various fees and unpaid maintenance amounts from the value of Rajaee's interest. Based on the offsets, the defendants contend that Rajaee is only entitled to $80,974.53. Given this range, I believe the $159,919.17 settlement amount is reasonable. Second, even if the estate prevailed in the litigation, collecting against the

entities would necessarily be both timing-consuming and costly. Third, the complexity and expense of the litigation favors approval of the proposed settlement. The agreements in dispute are complicated and not entirely clear. The issue of whether the yacht was properly maintained would likely require costly expert testimony. Finally, the proposed settlement is in the best interests of creditors. Under the settlement, the estate will receive $159,919.17 to resolve the litigation and avoid incurring additional legal expenses.

15. I weighed several factors in negotiating and ultimately agreeing to the compromises set forth in the Settlement Agreements, using the best information that was available to me.

16. I believe that the proposed settlements are in the best interest of creditors and the estate for the reasons stated in the foregoing Memorandum of Points and Authorities. At this point, the Debtors' bankruptcy estate is essentially insolvent. The estate does not currently have funds necessary to deal with the various legal issues in this complex case and all the pending litigation. The proposed settlements are an important step towards effectively administering this estate. Accordingly, I believe that the compromises reflected in the Settlement Agreements, which were negotiated at arm's length, constitute a significant and meaningful benefit to the Debtors' estate and will benefit the Debtors' creditors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 23, 2024, at San Diego, California.

CHRISTOPHER R. BARCLAY

EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into this 15th day of October 2024, by and between Christopher R. Barclay (the "Trustee"), solely in his capacity as chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee (collectively, the "Debtors"), in U.S.B.C. Case No. 24-00617-CL7 (the "Bankruptcy Case"), and Tyler Davis ("Davis") and TopDevz, LLC ("TopDevz"), with reference to the following recitals:

RECITALS

A. Ashkan Rajaee and Davis formed TopDevz in or about May 2017.

B. Various disputes subsequently arose between Ashkan Rajaee and Davis regarding, among other matters, the ownership and management of TopDevz.

C. On or about February 23, 2021, Ashkan Rajaee commenced an arbitration against Davis, IDR Case No. 1-21-0001-9983 (the "Arbitration"). In August 2021, Davis filed a counterclaim in the Arbitration.

D. Prior to bankruptcy, Ashkan Rajaee owned the real property located at (i) 6625 Muirlands Drive, San Diego, California 92037, APN: 352-352-08-00 (the "Muirlands Property"); and (b) 1020 Genter Street # 102, San Diego, California 92037, APN: 351-190-22-33 (the "Genter Property").

E. In or about February or March 2022, Ashkan Rajaee transferred title to the Muirlands Property to two (2) Qualified Personal Residence Trusts (the "QPRTs"). Nima Akhbari was the initial trustee of the QPRTs. Nima Akhbari is Nassim Rajaee's brother.

F. On or about April 22, 2022, Davis and TopDevz filed an action in San Diego County Superior Court against Ashkan Rajaee and Nima Akhbari, the trustee of the QPRTs, *Tyler Davis v. Ashkan Rajaee et al.*, S.D.S.C. Case No. 37-2022-00015126 (the "Prepetition Fraudulent Transfer Action"). In the Prepetition Fraudulent Transfer Action, Davis and TopDevz seek, among other relief, to avoid Ashkan Rajaee's transfer of the Muirlands Property to the QPRTs under the California Uniform Voidable Transactions Act.

G. On or about April 26, 2022, Davis recorded a Notice of Pendency of Action related to the Prepetition Fraudulent Transfer Action against title to the Muirlands Property as Document No. 2022-0182093 in the Official Records of the County Recorder of the County of San Diego.

H. On or about February 6, 2023, TopDevz recorded a Notice of Pendency of Action related to the Prepetition Fraudulent Transfer Action against title to the Muirlands Property as Document No. 2023-0029193 in the Official Records of the County Recorder of the County of San Diego.

I. On or about May 12, 2023, the Arbitrator issued a Final Award in the Arbitration (the "Arbitration Award").

J. On or about June 6, 2023, Davis and TopDevz filed a Petition to Confirm the Arbitration Award in *Tyler Davis v. Ashkan Rajaee*, San Diego County Superior Court Case No. 37-2022-00026691-CU-PA-CTL (the "Arbitration Confirmation Action").

K. On or about August 15, 2023, the Superior Court in the Arbitration Confirmation Action entered a judgment confirming the Arbitration Award (the "Arbitration Confirmation Judgment"). The Arbitration Confirmation Judgment awarded Davis $1,704,415.64 and awarded TopDevz $7,670,151.00, plus prejudgment interest.

L. On September 28, 2023, Nima Akhbari (the initial trustee of the QPRTs) passed away.

M. On or about October 6, 2023, Ashkan Rajaee appealed the Arbitration Confirmation Judgment, Cal. Ct. of Appeal Case No. D082966 (4th App. Dist.) (the "Arbitration Confirmation Appeal").

N. On or about February 7, 2024, Davis and TopDevz recorded an Abstract of Judgment as Document No. 2024-0031408 in the Official Records of the County Recorder of the County of San Diego.

O. On or about February 16, 2024, Ashkan Rajaee as the successor trustee of the QPRTs transferred title to the Muirlands Property back to himself.

P. On February 26, 2024 (the "Petition Date"), the Debtors commenced the Bankruptcy Case under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of California (the "Bankruptcy Court").

Q. The Muirlands Property, the Genter Property, and the claims asserted in the Prepetition Fraudulent Transfer Action are property of the Debtors' bankruptcy estate pursuant to 11 U.S.C. § 541.

R. On or about February 28, 2024, Davis and TopDevz submitted a creditor's claim against Nima Akhbari's estate, Los Angeles County Superior Court Case No. 23STPB13229 (the "Akhbari Probate Claim").

S. On or about April 18, 2024, Nora Akhbari, in her capacity as the administrator of the estate of Nima Akhbari, rejected the Akhbari Probate Claim.

T. On May 9, 2024, the Bankruptcy Court entered an order converting the Bankruptcy Case from chapter 11 to chapter 7.

U. The Trustee is the duly authorized and appointed representative of the Debtors' bankruptcy estate pursuant to 11 U.S.C. §§ 702(d) and 704.

V. Rajaee and Davis filed numerous additional lawsuits and other legal proceedings against each other and various third parties in both state and federal court, including:

i. *Tyler Davis v. Ashkan Rajaee*, Sacramento County Superior Court Case No. 34-2021-00295173-CU-BT-GDS.

ii. *Ashkan Rajaee v. Tyler Davis*, Sacramento County Superior Court Case No. 34-2022-00316510-CU-MC-GDS. This action was consolidated with Sacramento County Superior Court Case No. 34-2021-00295173-CU-BT-GDS.

iii. *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00001-RSH-KSC (S.D. Cal.).

iv. *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00549-RSH-KSC (S.D. Cal.).

v. *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00550-RSH-KSC (S.D. Cal.).

vi. *Ashkan Rajaee v. Joshua Lintz, et al.*, San Diego County Superior Court Case No. 37-2022-00012247-CU-BT-CTL.

vii. *Ashkan Rajaee v. Tyler Davis, at al.*, United States Bankruptcy Court Adv. No. 24-90033-CL (Bankr. S.D. Cal.).

viii. *Mobile Monster, Inc. v. Davis et al.*, Sacramento County Superior Court Case No. 34-2021-00301817-CU-BT-GDS. This case is currently on appeal before the California Court of Appeal, Third Appellate District, Case No. C100954.

W. On April 11, 2024, the District Court entered an Order Granting Defendants' Motions to Dismiss for Lack of Subject Matter Jurisdiction in *Rajaee v. Davis*, U.S.D.C. Case No. 24-CV-00001-RSH-KSC. The following day, the District Court entered Judgment dismissing the Complaint in U.S.D.C. Case No. 24-CV-00001-RSH-KSC as to all Defendants without prejudice.

X. On April 29, 2024, Ashkan Rajaee filed a Motion for Recusal in U.S.D.C. Case No. 24-CV-00001-RSH-KSC. On April 30, 2024, Ashkan Rajaee filed a Motion to Alter Judgment in U.S.D.C. Case No. 24-CV-00001-RSH-KSC.

Y. Davis and TopDevz filed Notices of Lien under California Code of Civil Procedure § 708.410 *et seq.* prior to the Petition Date in the following four cases filed by the Debtor: (i) *Ashkan Rajaee v. Kresses and Piasecki Legal PC, et al.*, U.S.D.C, Case No. 3:22-cv-00895-WQH-MMP (S.D. Cal.); (ii) *Ashkan Rajaee v. Lavine Lofgren Morris and Engelberg LLP, et al.*, San Diego Superior Court Case No. 37-2023-00011085-CU-PN-CTL; (iii) *Ashkan Rajaee v. Weinberg Gonser Frost LLP et al.*, Los Angeles Superior Court Case No. 23SMCV00121; and (iv) *Ashkan Rajaee v. SeaNet Company, Inc. et al.*, Orange County Superior

Court Case No. 30-2022-01290103-CU-SL-CJC (collectively, the "Debtor's Third-Party Actions").

Z. On May 6, 2024, Davis filed Amended Proof of Claim No. 8-2 in the Bankruptcy Case (the "Davis Proof of Claim"). The Davis Proof of Claim asserts a general unsecured claim in the amount of $1,748,776.84 based on the Arbitration Confirmation Judgment.

AA. On May 6, 2024, TopDevz filed Amended Proof of Claim No. 9-2 in the Bankruptcy Case (the "TopDevz Proof of Claim"). The TopDevz Proof of Claim asserts a general unsecured claim in the amount of $7,869,785.04 based on the Arbitration Confirmation Judgment.

BB. On July 10, 2024, Davis and TopDevz filed an action in San Diego County Superior Court against Nora Akhbari, as the administrator of the estate of Nima Akhbari (the deceased trustee of the QPRTs), *Tyler Davis v. Nora Akhbari*, S.D.S.C. Case No. 24CU000435C (the "Postpetition Fraudulent Transfer Action"). In the Postpetition Fraudulent Transfer Action, Davis and TopDevz allege that the transfer of the Muirlands Property to the QPRTs was a fraudulent transfer under the California Uniform Voidable Transactions Act and seek, among other relief, to recover the value of the Muirlands Property from Nora Akhbari, as the administrator of the estate of Nima Akhbari.

CC. The Postpetition Fraudulent Transfer Action was commenced pursuant to California Probate Code § 9353 after Nora Akhbari, as the administrator of the estate of Nima Akhbari, rejected the Akhbari Probate Claim, and asserted the same claims previously asserted and rejected in the probate proceeding.

DD. On August 7, 2024, the Debtors filed an Objection to the Davis Proof of Claim and the TopDevz Proof of Claim (the "Debtors' Claim Objection"). The Debtors' Claim Objection is currently scheduled for hearing before the Bankruptcy Court on October 28, 2024.

EE. On August 9, 2024, Davis and TopDevz filed a Complaint against the Debtors seeking to determine the dischargeability of the claims asserted in the Davis Proof of Claim and the TopDevz Proof of Claim (based on the Arbitration Confirmation Judgment) pursuant to 11 U.S.C. §§ 523(a)(2), (a)(4), and (a)(6), and to deny the Debtors' discharge pursuant to 11 U.S.C. § 727(a)(2), (a)(3), (a)(4), and (a)(5), U.S.B.C. Adv. No. 3:24-ap-90066 (Bankr. S.D. Cal.) (the "Non-Dischargeability Action").

FF. On September 9, 2024, the Debtors filed an Answer in the Non-Dischargeability Action.

GG. On or about September 26, 2024, the Trustee entered into a Settlement Agreement with Talentcrowd, LLC , Joshua Lintz, Melissa Garcia, Amanda Fye, Purdy & Bailey, LLP, Micah L. Bailey, Jonathan Gerber, Miller Miller Gerber, LLP, and Skan Technologies Inc. (the "Lintz/Talentcrowd Settlement Agreement"). The Trustee intends to seek Bankruptcy Court approval of the Lintz/Talentcrowd Settlement Agreement concurrently with seeking approval of this Agreement. Approval of the Lintz/Talentcrowd Settlement Agreement is not a condition of the effectiveness of this Agreement nor is approval of this Agreement a condition of the effectiveness of Lintz/Talentcrowd Settlement Agreement.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Trustee and Davis/TopDevz hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. Subject to this Agreement and the conditions stated herein, Recitals A through GG, inclusive, are incorporated herein by this reference.

2. Effectiveness of this Agreement. This Agreement shall become effective when and only when the Bankruptcy Court enters an order approving the Trustee's execution of this Agreement and the compromise set forth herein pursuant to Federal Rule of Bankruptcy Procedure 9019 (the "Approval Order"). If this Agreement is not approved by the Bankruptcy Court within 90 days after the date of this Agreement, this Agreement shall be null and void and of no force or effect, and shall not be admissible against the parties for any purpose. No appeal of the Approval Order shall stay the duties of the parties unless a stay pending appeal is entered.

3. Settlement Payment. No later than ten (10) business days after entry of the Approval Order, Davis and TopDevz shall pay to the Trustee the sum of $100,000.00 (the "Settlement Payment"). Davis and TopDevz shall be jointly and severally liable to the Trustee for the Settlement Payment. The Settlement Payment shall be made by check, money order, or wire payable to "Christopher R. Barclay, Chapter 7 Trustee" and delivered to the Trustee at the following address: Christopher R. Barclay, P.O. Box 2819, La Mesa, CA 91943-2819.

4. Dismissed Actions. No later than ten (10) business days following the Trustee's actual receipt of the Settlement Payment:

a. The Trustee shall withdraw or voluntarily dismiss, with prejudice, the Motion for Recusal and the Motion to Alter Judgment filed by Ashkan Rajaee in *Rajaee v. Davis*, U.S.D.C. Case No. 24-CV-00001-RSH-KSC as to the following Defendants: (i) Davis, (ii) TopDevz, (iii) Porter Consulting, LLC, (iv) Scott Carpenter, (v) J. Douglas Kirk, (vi) Joseph W. Scalia, (vii) Kerri A. Williams-Horn, (viii) Jenifer Bryn Guadagnin, (ix) Kenneth R. Reynolds, (x) Michael Hawes, (xi) Mason Building and Design, LLC, (xii) Cummins & White, LLP, (xiii) Kirk & Toberty, LLP, (xiv) Law Offices of Joseph W. Scalia, APC, and (xv) Kenneth R. Reynolds, Inc. The Trustee further agrees not to (i) seek to vacate, appeal, or otherwise challenge the Judgment in U.S.D.C. Case No. 24-CV-00001-RSH-KSC as to the Defendants identified in the preceding sentence; or (ii) to commence or prosecute any action in the future against any of those Defendants with respect to any claims asserted in U.S.D.C. Case No. 24-CV-00001-RSH-KSC.

b. The Trustee and Davis/TopDevz shall execute and file a Stipulation and/or Joint Motion to Dismiss the following case in its entirety with prejudice: *Rajaee v. Davis*, U.S.D.C. Case No. 24-CV-00549-RSH-KSC.

c. The Trustee and Davis/TopDevz shall execute and file a Stipulation and/or Joint Motion to Dismiss the following Defendants with prejudice from *Rajaee v. Davis*, U.S.D.C. Case No. 24-CV-00550-RSH-KSC: (i) Davis, (ii) Scott Carpenter, (iii) Cummins & White, LLP, (iv) Joseph W. Scalia, (v) Porter Consulting, LLC, and

(vi) TopDevz. If the Bankruptcy Court enters orders approving this Agreement and the Lintz/Talentcrowd Settlement Agreement, the Trustee shall dismiss the entire action referenced in this paragraph with prejudice.

d. The Trustee shall file a Request for Dismissal, with prejudice, as to the following Defendants in *Rajaee v. Lintz*, San Diego County Superior Court Case No. 37-2022-00012247-CU-BT-CTL: (i) Christopher C. Desisto, (ii) Porter Consulting, LLC, and (iii) Siarra Wood. If the Bankruptcy Court enters orders approving this Agreement and the Lintz/Talentcrowd Settlement Agreement, the Trustee shall dismiss the entire action referenced in this paragraph with prejudice.

e. The Trustee shall file a Notice of Dismissal, with prejudice, of the following adversary proceeding in its entirety: *Rajaee v. Davis*, U.S.B.C. Adv. Case No. 24-90033-CL.

f. The Trustee shall dismiss the appeal in *Mobile Monster v. Davis*, California Court of Appeal, Third Appellate District, Case No. C100954, as to Ashkan Rajaee only. The parties agree that the Trustee's dismissal of this appeal as to Ashkan Rajaee only shall not constitute a dismissal of any appellate or other rights belonging solely to the non-debtor entity, Mobile Monster, Inc.

5. The Arbitration-Related Actions. Notwithstanding anything to the contrary in this Agreement, (a) the Trustee is not dismissing, and the releases provided by the Trustee below shall not affect, the Trustee's and/or the bankruptcy estate's rights, claims, and/or defenses in the Arbitration Confirmation Appeal and any proceedings on remand in either the Arbitration and/or the Arbitration Confirmation Action; and (b) Davis and TopDevz are not dismissing, and the releases provided by Davis and TopDevz below shall not affect, Davis' and TopDevz's rights, claims, and/or defenses in *Davis v. Rajaee*, Sacramento County Superior Court Case No. 34-2021-00295173-CU-BT-GDS, consolidated with *Ashkan Rajaee v. Tyler Davis*, Sacramento County Superior Court Case No. 34-2022-00316510-CU-MC-GDS (together, the "Arbitration-Related Actions").

6. The Fraudulent Transfer Actions and Akhbari Probate Claim.

a. The parties agree that the claims asserted in the Prepetition Fraudulent Transfer Action became property of the Debtors' bankruptcy estate under 11 U.S.C. § 541 on the Petition Date. At the Trustee's option, Davis and TopDevz shall either (a) dismiss the Prepetition Fraudulent Transfer Action without prejudice; (b) assign the Prepetition Fraudulent Transfer Action to the Trustee; or (c) consent to the Trustee substituting into the action as the real party-in-interest under Federal Rule of Bankruptcy Procedure 6009.

b. The parties agree that (i) the Akhbari Probate Claim and the identical claims asserted in the Postpetition Fraudulent Transfer Action are property of the Debtors' bankruptcy estate under 11 U.S.C. § 541; (ii) the filing of the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action violated the automatic stay in 11 U.S.C. § 362(a)(3) because the claims asserted constituted property of the estate; and (iii) the Trustee is the real party-in-interest with respect to such claims.

c. Provided that Davis and TopDevz are not adjudicated to have breached this Agreement, the Trustee waives and releases any alleged claims for damages and sanctions based on Davis' and TopDevz's filing of the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action.

d. At the Trustee's option, Davis and TopDevz shall either (a) dismiss without prejudice the Akhbari Probate Claim and the Postpetition Fraudulent Transfer Action; (b) assign such claims and actions to the Trustee; or (c) consent to the Trustee substituting into such claims and actions as the real party-in-interest under Federal Rule of Bankruptcy Procedure 6009. This Agreement is not intended to benefit any non-party, and the parties intend for the subject claims to be preserved for the benefit of the estate and its creditors. The Trustee expressly reserves all rights and claims including the right to prosecute such claims and actions within the times provided for in 11 U.S.C. §§ 108 and 546. Additionally, this Agreement shall not bar Davis or TopDevz from seeking to amend the Akhbari Probate Claim or the causes of action set forth in the Postpetition Fraudulent Transfer Action to assert claims, if any, that do not constitute property of the estate. The Trustee does not concede that any such non-estate property claims exist.

7. Davis/TopDevz's General Non-Priority Unsecured Claim and Lien Avoidance/Releases. The Davis Proof of Claim and the TopDevz Proof of Claim and any claims asserted by Davis and TopDevz in any amended proofs of claim shall be treated solely as general non-priority unsecured claims for all purposes in the Bankruptcy Case. Without limiting the immediately preceding sentence, Davis and TopDevz hereby (a) agree that upon entry of the Approval Order any judgment lien(s) on the Muirlands Property and the Genter Property created by the Abstract of Judgment recorded by Davis and TopDevz as Document No. 2024-0031408 in the Official Records of the County Recorder of the County of San Diego on or about February 7, 2024, shall be deemed avoided under 11 U.S.C. § 547 and preserved for the benefit of the bankruptcy estate under 11 U.S.C. § 551; (b) waive and release any and all purported liens in any other property of the Debtors' bankruptcy estate, including, without limitation, the Debtor's Third-Party Actions and all claims asserted in the Debtor's Third-Party Actions. The waiver and release provided for in paragraph 7(b) is for the benefit of the Trustee on behalf of the Debtors' bankruptcy estate. Should any property of the estate subject to any lien that is being waived under paragraph 7(b) be abandoned by the Trustee, Davis/TopDevz shall be entitled to retain any lien against any such property. If either the Muirlands Property or the Genter Property is abandoned, the Trustee shall retain the avoided and preserved judgment lien(s) on the abandoned property until such time as the Bankruptcy Case is closed or dismissed. If the Bankruptcy Case is closed or dismissed and the avoided and preserved judgment lien(s) on either the Muirlands Property or the Genter Property have not been administered or otherwise extinguished under applicable law and still exist, such liens shall revert back to Davis and TopDevz. Pending approval of this Agreement by the Bankruptcy Court, Davis and TopDevz consent to the Trustee's sale of both the Muirlands Property and the Genter Property "free and clear" of their purported judgment lien(s) under 11 U.S.C. § 363(f).

8. The Trustee's Possible Abandonment and Procedural Recommendations.

a. Davis and TopDevz acknowledge that the Trustee may abandon certain property of the Debtors' bankruptcy estate to Ashkan Rajaee pursuant to 11 U.S.C. § 554, including the following: (i) the bankruptcy estate's rights, claims, and defenses in the Arbitration Confirmation Appeal and any proceedings on remand in the Arbitration and/or Arbitration Confirmation Action; and (ii) the bankruptcy estate's interests in TopDevz, Mobile Monster, Inc., OmniGenie, Inc., Media Magnet, Inc., Remote Prenerurs LLC, and TopDevz HYBRID, LLC. Provided that the Debtors do not object to the Bankruptcy Court's approval of this Agreement, Davis and TopDevz agree not to object to the Trustee's proposed abandonment as specified above. The Bankruptcy Court's approval of the Trustee's proposed abandonment as specified in this paragraph is not a condition to the effectiveness of this Agreement.

b. Pending approval of this Agreement by the Bankruptcy Court, the Trustee will recommend to the Bankruptcy Court that the Non-Dischargeability Action be stayed and the Debtors' Claim Objection be denied without prejudice pending final resolution of the Arbitration Confirmation Appeal and any proceedings on remand. However, the Bankruptcy Court agreeing to stay the Non-Dischargeability Action and/or denying the Debtors' Claim Objection pending final resolution of the Arbitration Confirmation Appeal and any proceedings on remand are not conditions to the effectiveness of this Agreement.

c. The Trustee reserves the right to object to the Davis Proof of Claim and/or the TopDevz Proof of Claim on the merits depending on the outcome of the Arbitration Confirmation Appeal and any subsequent proceedings on remand. Similarly, Davis and TopDevz reserve the right to amend their proofs of claim consistent with the terms of this Agreement depending on the outcome of the Arbitration Confirmation Appeal and any subsequent proceedings on remand. Nothing in this Agreement shall prohibit the Trustee from fulfilling his statutory duties or taking any actions the Trustee deems necessary to protect or further the interests of the bankruptcy estate so long as such actions do not result in a breach of this Agreement.

9. Mutual General Releases.

(a) Release by the Trustee. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Trustee, on behalf of the Debtors' bankruptcy estate, his successors and assigns, hereby releases and forever discharges Davis and TopDevz, their agents, partners, insurers, attorneys, accountants, representatives, successors, assigns, officers, directors, employees, and stockholders, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions (including, but not limited to, all avoidance actions of any type), of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement, **provided**, **however**, nothing in this paragraph or this Agreement generally shall constitute a release of or in any way impair the bankruptcy estate's rights, claims, or defenses in the Arbitration-Related Actions. The released claims are intended to be afforded their broadest possible scope and include all alleged claims that could have accrued prior to the date of this Agreement even if any alleged damage relating to such claims continues after the date of this Agreement consistent with the Ninth Circuit's recent decision in *Bercy v. City of Phoenix*, 103 F.4th 591, 593 (9th Cir. 2024)

(b) Release by Davis/TopDevz. Except for the rights, duties, and obligations created or expressly preserved by this Agreement (including the Davis Proof of Claim and the TopDevz Proof of Claim), Davis and TopDevz, on their own behalf and on behalf of their successors and assigns, hereby release and forever discharge the Trustee, all property of the Debtors' bankruptcy estate, and the Debtors' bankruptcy estate (but not the Debtors), and their respective agents, attorneys, accountants, representatives, successors, and assigns, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions, of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement **provided**, **however**, nothing in this paragraph or this Agreement generally shall constitute a release of or in any way impair Davis and TopDevz's rights, claims, or defenses including in the Arbitration-Related Actions or against the Debtors.

(c) Acknowledgment and Waiver of California Civil Code § 1542. The parties expressly waive any and all rights under section 1542 of the Civil Code of the State of California, which provides as follows:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

THE PARTIES EXPRESSLY WAIVE AND RELEASE ANY RIGHT OR BENEFIT WHICH THEY HAVE OR MAY HAVE UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, AND ANY SIMILAR STATUTE, CODE, LAW AND/OR REGULATION OF THE UNITED STATES, OR ANY STATE THEREOF, OR ANY OTHER JURISDICTION OUTSIDE OF THE UNITED STATES, TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN. In connection with such waiver and relinquishment, each party acknowledges that the party is aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which the party now knows or believes to be true. Nevertheless, it is the intention of each party, through the party's release, to release all matters that are subject to this Agreement, and all claims relative thereto, which now exist, may exist, or heretofore have existed, in any jurisdiction or venue. In furtherance of such intention, the release herein given shall be and remain in effect as a full and complete release of such matters notwithstanding the discovery or existence of any such additional or different claims or facts relative thereto.

10. Voluntary Settlement. The parties acknowledge and agree that each of them is entering into this Agreement freely and voluntarily and not acting under any misapprehension as

to the effect hereof, and has acted and does hereby act freely and voluntarily and not under any coercion or duress.

11. No Mistake of Fact or Law. In entering into this Agreement, each party recognizes that no facts or representations are ever absolutely certain. Accordingly, each party assumes the risk of any mistake, and if it/he should subsequently discover that any understanding of the facts or of the law was incorrect, each party understands and expressly agrees that it/he shall not be entitled to set aside this Agreement by reason thereof, regardless of any mistake of fact or law.

12. Representations and Warranties. The parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

(a) Each of the parties has received, or has had the ability to obtain, independent legal advice from attorneys of their choice with respect to the advisability of making the agreements provided herein and with respect to the advisability of executing this Agreement. The parties and their respective attorneys (if applicable) have made such investigation of the facts pertaining to this Agreement as they deem necessary.

(b) Except as otherwise expressly stated in this Agreement, the parties have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation or promise of the other party or any other person in entering into this Agreement, except as expressly stated in this Agreement. Each party has relied upon its/his own investigation and analysis of the facts and not on any statement or representation made by any other party in choosing to enter into this Agreement and the transactions contemplated herein.

13. No Admission against Interest. Nothing contained in this Agreement or negotiations and communications leading up to it shall be construed as admissions against the interest of any of the parties. Except to enforce this Agreement, the terms of this Agreement, including, without limitation, the recitals, representations and releases made by any party shall have no force or effect and will not be binding upon, enforceable against or deemed an admission or acknowledgment of any fact by any party. This Agreement shall not be admissible as evidence in any action or proceeding except to enforce this Agreement, or to carry out the actions contemplated herein.

14. Miscellaneous.

(a) Except as provided herein, all covenants, releases, warranties, representations and indemnities made by the parties to one another pursuant to this Agreement shall be and remain in full force and effect upon this Agreement becoming effective.

(b) The parties agree to execute and deliver such other instruments and perform such acts as may be appropriate or reasonably necessary, from time to time, to effectuate the agreements and understandings of the parties, whether the same occur before or after the date of this Agreement.

(c) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements, whether oral or written, between the parties with respect thereto. In addition, this Agreement may not be modified or amended, nor any of its provisions waived, except by an instrument in writing signed by the parties.

(d) This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the parties.

(e) The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction or interpretation of any term or provision hereof.

(f) To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

(g) This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the provisions of this Agreement.

(h) This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same Agreement. The parties acknowledge and agree that electronic signatures may be used in connection with the execution of this Agreement and such electronic signatures shall be legal and binding and shall have the same full force and effect as if a paper original of the Agreement had been delivered and signed using a handwritten signature. The words "execution," "signed," "signature," and similar words in this Agreement or in any document related to this Agreement, shall include images of manually executed signatures transmitted by e-mail or other electronic means (including, without limitation, "pdf," "tif," or "jpg") and other electronic signatures (including, without limitation, DocuSign).

(i) This Agreement is the product of negotiations of the parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

(j) Each party hereto shall bear all of its/his respective costs and expenses, including attorney's fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and required Bankruptcy Court approval of this Agreement. In the event that it becomes necessary for any party to this Agreement to take any action to interpret or enforce this Agreement, or any of its terms, and any party thereafter incurs costs (including attorney's fees) as a result thereof, the prevailing party in such dispute shall be entitled, in addition to any judgment or award, to an award for all costs incurred (including reasonable attorney's fees). The prevailing party shall further be entitled to an award of reasonable attorney's fees and related costs in connection with enforcement of any judgment, including enforcement following any appeal.

15. Unanimous Written Consent by the Members of TopDevz. Concurrently with the execution of this Agreement, the Trustee (solely on behalf of the Debtors' bankruptcy estate) and Davis are entering into the Unanimous Written Consent of the Members of TopDevz. LLC attached as **Exhibit A.**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed in the introductory paragraph of this Agreement.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By: ______________________
Christopher R. Barclay
Trustee

DocuSigned by:
Tyler Davis
D8E33EFCFD4D4C2...
____
TYLER DAVIS, an individual

TOPDEVZ, LLC

DocuSigned by:
By: Tyler Davis
D8E33EFCFD4D4C2...
Name: Tyler Davis
Title: Manager

Davis-TopDevz Settlement Agreement FINAL

EXHIBIT A

UNANIMOUS WRITTEN CONSENT OF THE MEMBERS OF TOPDEVZ, LLC

The undersigned, constituting all of the members of TopDevz, LLC (the "Company"), do hereby consent in writing to the following actions of the Company in lieu of a meeting:

RESOLVED, that Tyler Davis is authorized on behalf of the Company to execute the Settlement Agreement dated October 15, 2024 (the "Settlement Agreement"), between the Company and Christopher R. Barclay, solely in his capacity as chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee (the "Trustee").

RESOLVED, that Tyler Davis is authorized and directed to take all actions and to make, execute, deliver, and file on behalf of the Company, any and all documents as may be necessary or desirable to carry out the terms of the Settlement Agreement.

RESOLVED, that this Unanimous Written Consent may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same document. The parties acknowledge and agree that electronic signatures may be used in connection with the execution of this Unanimous Written Consent and such electronic signatures shall be legal and binding and shall have the same full force and effect as if a paper original of the Unanimous Written Consent had been delivered and signed using a handwritten signature. The words "execution," "signed," "signature," and similar words in this Unanimous Written Consent or in any document related to this Unanimous Written Consent, shall include images of manually executed signatures transmitted by e-mail or other electronic means (including, without limitation, "pdf," "tif," or "jpg") and other electronic signatures (including, without limitation, DocuSign).

RESOLVED, that this Unanimous Written Consent shall become effective when and only when the Bankruptcy Court enters an order approving the Trustee's execution of this Unanimous Written Consent and the Trustee's consent provided hereby pursuant to 11 U.S.C. § 363.

Approved as of October 15, 2024.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By:________________________
Christopher R. Barclay
Trustee

DocuSigned by:
Tyler Davis
D6E33EFCFD4D4C2...
____
TYLER DAVIS, an individual

EXHIBIT B

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into this 26th day of September 2024, by and between Christopher R. Barclay (the "Trustee"), solely in his capacity as chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee (the "Debtors"), in U.S.B.C. Case No. 24-00617-CL7 (the "Bankruptcy Case"), on the one hand, and Talentcrowd, LLC, a Wyoming limited liability company ("Talentcrowd"), Joshua Lintz, an individual ("Lintz"), Melissa Garcia, an individual ("Garcia"), Amanda Frye, an individual ("Frye"), Purdy & Bailey, LLP, a California limited liability partnership ("Purdy & Bailey"), Micah L. Bailey, an individual ("Bailey"), Jonathan Gerber, an individual ("Gerber"), Miller Miller Gerber, LLP, a California limited liability partnership ("Miller Miller Gerber"), Skan Technologies Inc., a Delaware corporation ("Skan") (collectively, the "Lintz/Talentcrowd Defendants"), on the other hand, with reference to the following recitals:

RECITALS

A. On April 1, 2022, Ashkan Rajaee filed a lawsuit against Talentcrowd, Frye, Lintz, Garcia, Skan, Kimberlee Aguayo, Lawrence Allen, Vincil Bishop, Christopher C. Desisto, John Glauser, Jeremy Hardin, Porter Consulting, LLC, and Siarra Wood, in *Ashkan Rajaee v. Joshua Lintz, et al.*, Superior Court of California, County of San Diego, Case No. 37-2022-00012247-CU-BT-CTL (the "Lintz Lawsuit"). In the Lintz Lawsuit, Ashkan Rajaee asserted four causes of action for: (1) Unfair Competition (Lanham Act §43(a)), (2) Defamation Per Se, and (3) Unfair Competition (Cal. Bus. & Prof. Code § 17200, *et seq.*), and (4) Breach of Fiduciary Duty. The Lintz/Talentcrowd Defendants dispute the allegations in the Lintz Lawsuit. The Lintz Lawsuit is currently stayed.

B. On January 2, 2024, Ashkan Rajaee filed another lawsuit against Talentcrowd, Lintz, Frye, Purdy & Bailey, Bailey, Gerber, Miller Miller Gerber, Tyler Davis, TopDevz, LLC, Porter Consulting, LLC, Scott Carpenter, J. Douglas Kirk, Joseph W. Scalia, Kerri A. Williams-Horn, Jenifer Bryn Guadagnin, Kenneth R. Reynolds, Michael Hawes, Mason Building and Design, LLC, Cummins & White, LLP, Kirk & Toberty, LLP, Law Offices of Joseph W. Scalia, APC, Kenneth R. Reynolds, Inc., Sandhills Global, Inc., Express Tech-Financing, LLC, 402 Ventures, LLC, Blockchain Game Partners, Inc. d/b/a Gala Games, Drivetime Car Sales Company, LLC, Mode Transportation, LLC, Medical Staffing Solutions, Inc., Intellicheck, Inc., Scott McKinney, Shawn Peed, Adam Price, Aaron Price, Aaron McIver, Peter Grisolano, Sean Clancy, Anthony Vargas, James Marsh, Frank Lubin, and Russ Embry in *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00001-RSH-KSC (S.D. Cal.) (the "Conspiracy Lawsuit"). In the Conspiracy Lawsuit, Ashkan Rajaee asserted seventeen causes of action for: (1) Declaratory Relief (Cal. Civ. Code § 1798.93(a)), (2) Promissory Fraud, (3) Conversion, (4) Aiding and Abetting Conversion, (5) Constructive Fraud, (6) Aiding and Abetting Constructive Fraud, (7) Intentional Misrepresentation, (8) Concealment, (9) Negligent Misrepresentation, (10) Breach of Confidentiality, (11) Intentional Interference With Contractual Relations, (12) Aiding and Abetting Breach of Fiduciary Duty, (13) Professional Negligence, (14) Wrongful Use of Civil Proceedings, (15) Abuse of Process, (16) Conspiracy, and (17) Violation of California Penal Code § 496(c). The Lintz/Talentcrowd Defendants dispute the allegations in the Conspiracy Lawsuit.

C. On February 26, 2024 (the "Petition Date"), the Debtors commenced the Bankruptcy Case under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of California (the "Bankruptcy Court").

D. On March 22, 2024, Ashkan Rajaee filed another lawsuit against Tyler Davis, Lintz, Talentcrowd, Garcia, Vincil Bishop, Frye, Scott Carpenter, Cummins & White, LLP, Joseph W. Scalia, Porter Consulting, LLC, and TopDevz, LLC in *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00550-RSH-KSC (S.D. Cal.) (the "Trade Secret Lawsuit"). In the Trade Secret Lawsuit, Ashkan Rajaee asserts three causes of action against for: (1) Violation of the Defend Trade Secrets Act (18 U.S.C. § 1832 *et seq.*), (2) Trade Secret Misappropriation (Cal. Civ. Cide § 3426 *et seq.*), and (3) Accounting. The Lintz/Talentcrowd Defendants dispute the allegations in the Trade Secret Lawsuit. The Trade Secret Lawsuit is currently stayed.

E. On April 11, 2024, the District Court entered an Order Granting Defendants' Motions to Dismiss for Lack of Subject Matter Jurisdiction in the Conspiracy Lawsuit. The following day, the District Court entered Judgment dismissing the Complaint in the Conspiracy Lawsuit as to all Defendants without prejudice (the "Conspiracy Lawsuit Judgment").

F. On April 29, 2024, Ashkan Rajaee filed a Motion for Recusal (the "Motion for Recusal") and on April 30, 2024, Ashkan Rajaee filed a Motion to Alter Judgment (the "Motion to Alter Judgment") in the Conspiracy Lawsuit.

G. On May 9, 2024, the Bankruptcy Court entered an order converting the Bankruptcy Case from chapter 11 to chapter 7.

H. The Trustee is the duly authorized and appointed representative of the Debtors' bankruptcy estate pursuant to 11 U.S.C. § 704.

I. On May 31, 2024, the Trustee appeared in the Conspiracy Lawsuit. On June 10, 2024, the District Court granted the Trustee's *Ex Parte* Motion to Stay Case for 90 days. On September 9, 2024, the District Court granted the Trustee's Second *Ex Parte* Request to Stay Case for an additional 90 days. The District Court did not rule on the Motion for Recusal or the Motion to Alter Judgment prior to the stay and those matters are still pending in the Conspiracy Lawsuit.

J. The Lintz/Talentcrowd Defendants deny the validity of any of the claims that Ashkan Rajaee has brought against them in the Lintz Lawsuit, the Conspiracy Lawsuit, and/or the Trade Secrets Lawsuit. The Lintz/Talentcrowd Defendants contend that they are entering into this Agreement because they anticipate that the time and expense of continuing to defend these actions would exceed the amount that Talentcrowd is offering to pay to the Trustee as a Settlement Payment (as defined below).

K. The Trustee and the Lintz/Talentcrowd Defendants believe it to be in their respective best interests to fully and finally resolve the dispute existing between them. Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Trustee and the Lintz/Talentcrowd Defendants hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. Subject to this Agreement and the conditions stated herein, Recitals A through K, inclusive, are incorporated herein by this reference.

2. Effectiveness of this Agreement. This Agreement shall become effective when, and only when, the Bankruptcy Court enters an order approving this Agreement pursuant to Federal Rule of Bankruptcy Procedure 9019 (the "Approval Order"). If this Agreement is not approved by the Bankruptcy Court within 90 days after the date of this Agreement, this Agreement shall be null and void and of no force or effect, and shall not be admissible against the parties for any purpose.

3. Settlement Payment. No later than ten (10) business days after entry of the Approval Order, Talentcrowd shall deliver to the Trustee the sum of $100,000.00 (the "Settlement Payment"). The Settlement Payment shall be made by wire, check or money order and made payable to "Christopher R. Barclay, Chapter 7 Trustee" and delivered to the Trustee at the following address: Christopher R. Barclay, P.O. Box 2819, La Mesa, CA 91943-2819.

4. Dismissals in the Lintz Lawsuit. No later than ten (10) business days following the Trustee's actual receipt of the Settlement Payment, the Trustee shall file a Request for Dismissal, with prejudice, with the Superior Court in the Lintz Lawsuit as to all Defendants identified in **Exhibit A** attached hereto.

5. Dismissals in the Conspiracy Lawsuit. No later than ten (10) business days following the Trustee's actual receipt of the Settlement Payment, the Trustee shall file a Withdrawal of the Motion for Recusal and the Motion to Alter Judgment, with prejudice, as to all Defendants identified in **Exhibit B** attached hereto. The Trustee further agrees not to (a) seek to vacate, appeal, or otherwise challenge the Conspiracy Lawsuit Judgment as to all Defendants identified in **Exhibit B**; or (b) to commence or prosecute any action in the future against any of the Defendants identified in **Exhibit B** with respect to any claims asserted in the Conspiracy Lawsuit.

6. Dismissals in the Trade Secrets Lawsuit. No later than ten (10) business days following the Trustee's actual receipt of the Settlement Payment, the Trustee and the Lintz/Talentcrowd Defendants shall execute and file a Stipulation in the Trade Secrets Lawsuit dismissing, with prejudice, all Defendants identified in **Exhibit C** attached hereto.

6. Mutual General Releases.

(a) Release by the Trustee. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Trustee, on behalf of the Debtors' bankruptcy estate, and his successors and assigns, hereby releases and forever discharges the Lintz/Talentcrowd Defendants, their agents, partners, insurers, attorneys, accountants, representatives, successors, assigns, officers, directors, managers, employees, members, stockholders, spouses, children, heirs, executors, administrators, trustees, trusts, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions (including, but not limited to, all avoidance actions of any type), of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement.

(b) Release by the Lintz/Talentcrowd Defendants. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Lintz/Talentcrowd Defendants, on their own behalf and on behalf of their successors and assigns, hereby releases and forever discharges the Trustee, all property of the Debtors' bankruptcy estate, the Debtors' bankruptcy estate, and their respective agents, attorneys, accountants, representatives, successors, and assigns, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions, of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement.

(c) Acknowledgment and Waiver of California Civil Code § 1542. The Parties expressly waive any and all rights under section 1542 of the Civil Code of the State of California, which provides as follows:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

THE PARTIES EXPRESSLY WAIVE AND RELEASE ANY RIGHT OR BENEFIT WHICH THEY HAVE OR MAY HAVE UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, AND ANY SIMILAR STATUTE, CODE, LAW AND/OR REGULATION OF THE UNITED STATES, OR ANY STATE THEREOF, OR ANY OTHER JURISDICTION OUTSIDE OF THE UNITED STATES, TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN. In connection with such waiver and relinquishment, each party acknowledges that the party is aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which the party now knows or believes to be true. Nevertheless, it is the intention of each party, through the party's release, to release all matters that are subject to this Agreement, and all claims relative thereto, which now exist, may exist, or heretofore have existed, in any jurisdiction or venue. In furtherance of such intention, the release herein given shall be and remain in effect as a full and complete release of such matters notwithstanding the discovery or existence of any such additional or different claims or facts relative thereto.

7. Voluntary Settlement. The parties acknowledge and agree that each of them is entering into this Agreement freely and voluntarily and not acting under any misapprehension as

to the effect hereof, and has acted and does hereby act freely and voluntarily and not under any coercion or duress.

8. No Mistake of Fact or Law. In entering into this Agreement, each party recognizes that no facts or representations are ever absolutely certain. Accordingly, each party assumes the risk of any mistake, and if it/he/she should subsequently discover that any understanding of the facts or of the law was incorrect, each party understands and expressly agrees that it/he/she shall not be entitled to set aside this Agreement by reason thereof, regardless of any mistake of fact or law.

9. Representations and Warranties. The parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

(a) Each of the parties has received, or has had the ability to obtain, independent legal advice from attorneys of their choice with respect to the advisability of making the agreements provided herein and with respect to the advisability of executing this Agreement. The parties and their respective attorneys (if applicable) have made such investigation of the facts pertaining to this Agreement as they deem necessary.

(b) Except as otherwise expressly stated in this Agreement, the parties have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation or promise of the other party or any other person in entering into this Agreement, except as expressly stated in this Agreement. Each party has relied upon its/his/her own investigation and analysis of the facts and not on any statement or representation made by any other party in choosing to enter into this Agreement and the transactions contemplated herein.

(c) The parties have not heretofore assigned or transferred, or purported to assign or transfer, to anyone, any of the claims, demands, obligations or actions based upon, arising out of, pertaining to, or concerned with any of the matters released in this Agreement, and that none of the matters being released and relinquished hereunder have been assigned, transferred, discharged or otherwise assigned to any other person or entity.

(d) The persons executing this Agreement have the authority to do so. The Trustee's execution of this Agreement is expressly subject to Bankruptcy Court approval.

(e) The persons executing this Agreement have not instituted any other legal action or other proceeding related to the subject matter described in this Agreement.

10. No Admission against Interest. Nothing contained in this Agreement or negotiations and communications leading up to it shall be construed as admissions against the interest of any of the parties. Except to enforce this Agreement, the terms of this Agreement, including, without limitation, the recitals, representations and releases made by any party shall have no force or effect and will not be binding upon, enforceable against or deemed an admission or acknowledgment of any fact by any party. This Agreement shall not be admissible as evidence in any action or proceeding except to enforce this Agreement, or to carry out the actions contemplated herein.

11. No Admission of Liability. No action taken by the parties, either previously or in connection with this Agreement, shall be deemed or construed to be an admission by the Parties of any fault or liability whatsoever in connection with any matter or thing. Nothing contained in or referred to in this Agreement shall be deemed to constitute an admission of liability nor responsibility, and it is recognized that this Agreement and the promises, covenants and conditions set forth herein as entered into by the parties hereto are for the purpose of avoiding further time and expense.

12. Miscellaneous.

(a) Except as provided herein, all covenants, releases, warranties, representations and indemnities made by the parties to one another pursuant to this Agreement shall be and remain in full force and effect upon this Agreement becoming effective.

(b) The parties agree to cooperate and execute and deliver such other instruments and perform such acts as may be appropriate or reasonably necessary, from time to time, to effectuate the agreements and understandings of the parties, whether the same occur before or after the date of this Agreement.

(c) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements, whether oral or written, between the parties with respect thereto. In addition, this Agreement may not be modified or amended, nor any of its provisions waived, except by an instrument in writing signed by all the parties.

(d) This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the parties.

(e) The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction or interpretation of any term or provision hereof.

(f) To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

(g) This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the provisions of this Agreement.

(h) This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same Agreement. The parties acknowledge and agree that electronic signatures may be used in connection with the execution of this Agreement and such electronic signatures shall be legal and binding and shall have the same full force and effect as if a paper original of the Agreement had been delivered and signed using a handwritten signature. The words "execution," "signed," "signature," and similar words in this Agreement or in any document related to this Agreement, shall include images of manually executed signatures transmitted by e-mail or other electronic means (including, without limitation, "pdf," "tif," or "jpg") and other electronic signatures (including, without limitation, DocuSign).

(i) This Agreement is the product of negotiations of the parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

(j) Each party hereto shall bear all of its/his/her respective costs and expenses, including attorney's fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and required Bankruptcy Court approval of this Agreement. In the event that it becomes necessary for any party to this Agreement to take any action to interpret or enforce this Agreement, or any of its terms, and any party thereafter incurs costs (including attorney's fees) as a result thereof, the prevailing party in such dispute shall be entitled, in addition to any judgment or award, to an award for all costs incurred (including reasonable attorney's fees). The prevailing party shall further be entitled to an award of reasonable attorney's fees and related costs in connection with enforcement of any judgment, including enforcement following any appeal.

(k) Each party agrees that it is solely responsible for any tax consequences which it may incur as a result of this Agreement. The parties neither offer nor make any representation related to the characterization of the payments detailed herein for tax or related purposes, and the parties do not rely on any such statements. The parties acknowledge their right to rely upon tax or other professionals for such advice or characterization.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed in the introductory paragraph of this Agreement.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By:____________________________
Christopher R. Barclay
Trustee

[SIGNATURES CONTINUED FOLLOW ON NEXT PAGE]

TALENTCROWD, LLC, a Wyoming Limited Liability Company

By: Joshua Lintz (Sep 27, 2024 10:54 PDT)
Name: Joshua Lintz
Title: Manager

Joshua Lintz (Sep 27, 2024 10:54 PDT)
JOSHUA LINTZ, an individual

Melissa Garcia (Sep 27, 2024 10:42 PDT)
MELISSA GARCIA, an individual

Amanda Frye (Sep 27, 2024 13:45 EDT)
AMANDA FRYE, an individual

PURDY & BAILEY, LLP, a California limited liability partnership

By: Micah L. Bailey
Name: Micah L. Bailey
Title: Partner

Micah L. Bailey
MICAH L. BAILEY, an individual

Jonathan L. Gerber
JONATHAN GERBER, an individual

MILLER MILLER GERBER, LLP, a California limited liability partnership

By: Jonathan L. Gerber
Name: Jonathan Gerber
Title: Partner

SKAN TECHNOLOGIES INC., a Delaware corporation

By: Joshua Lintz (Sep 27, 2024 10:54 PDT)
Name: Joshua Lintz
Title: Chief Executive Officer

EXHIBIT A

Defendants to be Dismissed from *Ashkan Rajaee v. Joshua Lintz, et al.*, Superior Court of California, County of San Diego, Case No. 37-2022-00012247-CU-BT-CTL

Name	**Description**
Talentcrowd, LLC	Wyoming Limited Liability Company
Joshua Lintz	Founder, Manager, and Employee of Talentcrowd, LLC
Amanda Frye	Member and Employee of Talentcrowd, LLC
Melissa Garcia	Employee of Talentcrowd, LLC
Skan Technologies Inc.	Dissolved Delaware Corporation Owned by Josh Lintz, Vincil Bishop, and others
Kimberlee Aguayo	Contractor of Talentcrowd, LLC
Lawrence Allen	Contractor of Talentcrowd, LLC
Vincil Bishop	Contractor of Talentcrowd, LLC
John Glauser	Contractor of Talentcrowd, LLC
Jeremy Hardin	Contractor of Talentcrowd, LLC

EXHIBIT B

Defendants to be Dismissed from *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00001-RSH-KSC (S.D. Cal.)

Name	**Description**
Talentcrowd, LLC	Wyoming Limited Liability Company
Joshua Lintz	Founder, Manager and Employee of Talentcrowd, LLC
Amanda Frye	Member and Employee of Talentcrowd, LLC
Purdy & Bailey, LLP	Attorneys of record for Talentcrowd, LLC, Lintz, Frye, and Garcia in litigation
Micah L. Bailey	Attorney of record for Talentcrowd, LLC, Lintz, Frye, and Garcia in litigation
Miller Miller Gerber, LLP	Attorneys of record for Frye in litigation
Jonathan Gerber	Attorney of record for Frye in litigation
Sandhills Global, Inc.	Customer
Express Tech-Financing, LLC	Customer
402 Ventures, LLC	Customer
Blockchain Game Partners, Inc. d/b/a Gala Games	Customer
Drivetime Car Sales Company, LLC	Customer
Mode Transportation, LLC	Customer
Medical Staffing Solutions, Inc.	Customer
Intellicheck, Inc.	Customer
Scott McKinney	Customer Representative
Shawn Peed	Customer Representative
Adam Price	Customer Representative
Aaron Price	Customer Representative
Aaron McIver	Customer Representative
Peter Grisolano	Customer Representative
Sean Clancy	Customer Representative
Anthony Vargas	Customer Representative
James Marsh	Customer Representative
Frank Lubin	Customer Representative
Russ Embry	Customer Representative

EXHIBIT C

Defendants to be Dismissed from *Ashkan Rajaee v. Tyler Davis, et al.*, United States District Court Case No. 24-CV-00550-RSH-KSC (S.D. Cal.)

Name	**Description**
Talentcrowd, LLC	Wyoming Limited Liability Company
Joshua Lintz	Founder, Manager and Employee of Talentcrowd, LLC
Amanda Frye	Member and Employee of Talentcrowd, LLC
Melissa Garcia	Employee of Talentcrowd, LLC
Vincil Bishop	Contractor of Talentcrowd, LLC

EXHIBIT C

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into this 30th day of September 2024, by and between Christopher R. Barclay (the "Trustee"), solely in his capacity as chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee (the "Debtors"), in U.S.B.C. Case No. 24-00617-CL7 (the "Bankruptcy Case"), on the one hand, and Kresses and Piasecki Legal PC and Kolette Kresses (also known as Kolette Piasecki) (the "Kresses Defendants"), on the other hand, with reference to the following recitals:

RECITALS

A. On or about June 20, 2022, Ashkan Rajaee filed the following lawsuit: *Ashkan Rajaee v. Kresses and Piasecki Legal PC, et al.*, United States District Court Case No. 3:22-cv-00895-WQH-MMP (S.D. Cal.) (the "Kresses Lawsuit"). The Kresses Defendants deny Ashkan Rajaee's allegations in the Kresses Lawsuit.

B. On or about November 2, 2023, Tyler Davis and TopDevz LLC filed a Notice of Lien under California Code of Civil Procedure § 708.410 *et seq.* in the Kresses Lawsuit.

C. On February 26, 2024 (the "Petition Date"), the Debtors commenced the Bankruptcy Case under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of California (the "Bankruptcy Court").

D. On May 9, 2024, the Bankruptcy Court entered an order converting the Bankruptcy Case from chapter 11 to chapter 7.

E. The Trustee is the duly authorized and appointed representative of the Debtors' bankruptcy estate pursuant to 11 U.S.C. § 704.

F. The Kresses Lawsuit and the claims asserted therein are property of the Debtors' bankruptcy estate under to 11 U.S.C. § 541.

G. The Trustee and the Kresses Defendants believe it to be in their respective best interests to fully and finally resolve the dispute existing between them. Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Trustee and the Kresses Defendants hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. Subject to this Agreement and the conditions stated herein, Recitals A through G, inclusive, are incorporated herein by this reference.

2. Effectiveness of this Agreement. This Agreement shall become effective when, and only when, the Bankruptcy Court enters an order approving both (a) this Agreement pursuant to Federal Rule of Bankruptcy Procedure 9019 and (b) the Trustee's agreement with Tyler Davis and TopDevz, LLC to release their purported lien on the Kresses Lawsuit (the "Approval Order"). If this Agreement is not approved by the Bankruptcy Court within 90 days after the date of this

Agreement, this Agreement shall be null and void and of no force or effect, and shall not be admissible against the parties for any purpose.

3. Settlement Payment. Within ten (10) business days after entry of the Approval Order, the Kresses Defendants shall deliver to the Trustee the sum of $30,000.00 (the "Settlement Payment"). The Settlement Payment shall be made by wire, check or money order and made payable to "Christopher R. Barclay, Chapter 7 Trustee" and delivered to the Trustee at the following address: Christopher R. Barclay, P.O. Box 2819, La Mesa, CA 91943-2819.

4. Dismissal of the Kresses Lawsuit. Within ten (10) business days following the Trustee's actual receipt of the Settlement Payment, the Trustee and the Kresses Defendants shall execute and file with the District Court a Stipulation dismissing the Kresses Lawsuit in its entirety with prejudice, with each party to bear his, her, or its own costs.

5. Mutual General Releases.

(a) Release by the Trustee. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Trustee, on behalf of the Debtors' bankruptcy estate, and his successors and assigns, hereby releases and forever discharges the Kresses Defendants, their officers, directors, employees and stockholders, jointly and severally, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions (including, but not limited to, all avoidance actions of any type), of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever, including, but not limited to, the matters alleged in the Kresses Lawsuit from the beginning of time to the date of this Agreement.

(b) Release by the Kresses Defendants. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Kresses Defendants, on their own behalf and on behalf of their successors and assigns, hereby releases and forever discharges the Trustee, all property of the Debtors' bankruptcy estate, the Debtors' bankruptcy estate, and their respective agents, attorneys, accountants, representatives, successors, and assigns, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions, of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever, including, but not limited to, the matters alleged in the Kresses Lawsuit from the beginning of time to the date of this Agreement.

(c) Acknowledgment and Waiver of California Civil Code § 1542. The Parties expressly waive any and all rights under section 1542 of the Civil Code of the State of California, which provides as follows:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

THE PARTIES EXPRESSLY WAIVE AND RELEASE ANY RIGHT OR BENEFIT WHICH THEY HAVE OR MAY HAVE UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, AND ANY SIMILAR STATUTE, CODE, LAW AND/OR REGULATION OF THE UNITED STATES, OR ANY STATE THEREOF, OR ANY OTHER JURISDICTION OUTSIDE OF THE UNITED STATES, TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN. In connection with such waiver and relinquishment, each party acknowledges that the party is aware that they may subsequently discover claims presently unknown or unsuspected, or facts in addition to or different from those which the party now knows or believes to be true. Nevertheless, it is the intention of each party, through the party's release, to release all matters that are subject to this Agreement, and all related claims, , which now exist, may exist, or may have existed, in any jurisdiction or venue. In furtherance of such intention, the release herein given shall be and remain in effect as a full and complete release of such matters notwithstanding the discovery or existence of any such additional or different claims or facts.

6. Voluntary Settlement. The parties acknowledge and agree that each of them is entering into this Agreement freely and voluntarily and not acting under any misapprehension as to the effect hereof, and has acted and does hereby act freely and voluntarily and not under any coercion or duress.

7. No Mistake of Fact or Law. In entering into this Agreement, each party recognizes that no facts or representations are ever absolutely certain. Accordingly, each party assumes the risk of any mistake, and if it/he should subsequently discover that any understanding of the facts or of the law was incorrect, each party understands and expressly agrees that it/he shall not be entitled to set aside this Agreement by reason thereof, regardless of any mistake of fact or law.

8. Representations and Warranties. The parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

(a) Each of the parties has received, or has had the ability to obtain, independent legal advice from attorneys of their choice with respect to the advisability of making the agreements provided herein and with respect to the advisability of executing this Agreement. The parties and their respective attorneys (if applicable) have made such investigation of the facts pertaining to this Agreement as they deem necessary.

(b) Except as otherwise expressly stated in this Agreement, the parties have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation or promise of the other party or any other person in entering into this Agreement, except as expressly stated in this Agreement. Each party has relied upon its/his/her own investigation and analysis of the facts and not on any statement or representation made by any other party in choosing to enter into this Agreement and the transactions contemplated herein.

(c) The parties have not heretofore assigned or transferred, or purported to assign or transfer, to anyone, any of the claims, demands, obligations or actions based upon, arising out of, pertaining to, or concerned with any of the matters released in this Agreement, and that none of the matters being released and relinquished hereunder have been assigned, transferred, discharged or otherwise assigned to any other person or entity.

(d) The persons executing this Agreement have the authority to do so. The Trustee's execution of this Agreement is expressly subject to Bankruptcy Court approval.

(e) The persons executing this Agreement have not instituted any other legal action or other proceeding related to the subject matter described in this Agreement.

9. No Admission against Interest. Nothing contained in this Agreement or negotiations and communications leading up to it shall be construed as admissions against the interest of any of the parties. Except to enforce this Agreement, the terms of this Agreement, including, without limitation, the recitals, representations and releases made by any party shall have no force or effect and will not be binding upon, enforceable against or deemed an admission or acknowledgment of any fact by any party. This Agreement shall not be admissible as evidence in any action or proceeding except to enforce this Agreement, or to carry out the actions contemplated herein.

10. No Admission of Liability. No action taken by the parties, either previously or in connection with this Agreement, shall be deemed or construed to be an admission by the Parties of any fault or liability whatsoever in connection with any matter or thing. Nothing contained in or referred to in this Agreement shall be deemed to constitute an admission of liability nor responsibility, and it is recognized that this Agreement and the promises, covenants and conditions set forth herein as entered into by the parties hereto are for the purpose of avoiding further time and expense.

11. Miscellaneous.

(a) Except as provided herein, all covenants, releases, warranties, representations and indemnities made by the parties to one another pursuant to this Agreement shall be and remain in full force and effect upon this Agreement becoming effective.

(b) The parties agree to cooperate and execute and deliver such other instruments and perform such acts as may be appropriate or reasonably necessary, from time to time, to effectuate the agreements and understandings of the parties, whether the same occur before or after the date of this Agreement.

(c) This Agreement constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior and contemporaneous agreements, whether oral or written, between the parties with respect thereto. In addition, this

Agreement may not be modified or amended, nor any of its provisions waived, except by an instrument in writing signed by all the parties.

(d) This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the parties.

(e) The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction or interpretation of any term or provision hereof.

(f) To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

(g) This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce or interpret the provisions of this Agreement.

(h) This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same Agreement. The parties acknowledge and agree that electronic signatures may be used in connection with the execution of this Agreement and such electronic signatures shall be legal and binding and shall have the same full force and effect as if a paper original of the Agreement had been delivered and signed using a handwritten signature. The words "execution," "signed," "signature," and similar words in this Agreement or in any document related to this Agreement, shall include images of manually executed signatures transmitted by e-mail or other electronic means (including, without limitation, "pdf," "tif," or "jpg") and other electronic signatures (including, without limitation, DocuSign).

(i) This Agreement is the product of negotiations of the parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

(j) Each party hereto shall bear all of its/his/her respective costs and expenses, including attorney's fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and required Bankruptcy Court approval of this Agreement. In the event that it becomes necessary for any party to this Agreement to take any action to interpret or enforce this Agreement, or any of its terms, and any party thereafter incurs costs (including attorney's fees) as a result thereof, the prevailing party in such dispute shall be entitled, in addition to any judgment or award, to an award for all costs incurred (including reasonable attorney's fees). The prevailing party shall further be entitled to an award of reasonable attorney's fees and related costs in connection with enforcement of any judgment, including enforcement following any appeal.

(k) Each party agrees that it is solely responsible for any tax consequences which it may incur as a result of this Agreement. The parties neither offer nor make any representation related to the characterization of the payments detailed herein for tax or related purposes, and the parties do not rely on any such statements. The parties acknowledge their right to rely upon tax or other professionals for such advice or characterization.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed in the introductory paragraph of this Agreement.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By:____________________
Christopher R. Barclay
Trustee

KRESSES AND PIASECKI LEGAL PC

By:____________________
Name: Kolette Kresses Piasecki
Title: Managing Director + President

____
KOLETTE KRESSES, an individual

Kresses Settlement Agreement v.2

EXHIBIT D

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into this 1st day of October 2024, by and between Christopher R. Barclay (the "Trustee"), solely in his capacity as chapter 7 trustee for the bankruptcy estate of Ashkan Rajaee and Nassim Rajaee (the "Debtors"), in U.S.B.C. Case No. 24-00617-CL7 (the "Bankruptcy Case"), on the one hand, and SeaNet Company, Inc., a California corporation ("SeaNet") and Jensens Bay, LLC, a Colorado limited liability company ("Jensens Bay" and together with the Trustee and SeaNet, the "Parties" and each a "Party"), on the other hand, with reference to the following recitals:

RECITALS

A. On or about November 1, 2022, Ashkan Rajaee filed the following lawsuit: *Ashkan Rajaee v. SeaNet Company, Inc. et al.*, Orange County Superior Court Case No. 30-2022-01290103-CU-SL-CJC (the "SeaNet Lawsuit"). SeaNet and Jensens Bay deny Ashkan Rajaee's allegations in the SeaNet Lawsuit.

B. On or about November 1, 2023, Tyler Davis and TopDevz LLC filed a Notice of Lien under California Code of Civil Procedure § 708.410 *et seq.* in the SeaNet Lawsuit.

C. On February 26, 2024 (the "Petition Date"), the Debtors commenced the Bankruptcy Case under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of California (the "Bankruptcy Court").

D. On May 9, 2024, the Bankruptcy Court entered an order converting the Bankruptcy Case from chapter 11 to chapter 7.

E. The Trustee is the duly authorized and appointed representative of the Debtors' bankruptcy estate pursuant to 11 U.S.C. § 704.

F. The SeaNet Lawsuit and the claims asserted therein are property of the Debtors' bankruptcy estate under to 11 U.S.C. § 541.

G. The Trustee, SeaNet, and Jensens Bay believe it to be in their respective best interests to fully and finally resolve the dispute existing between them. Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Trustee and SeaNet hereby agree as follows:

AGREEMENT

1. <u>Incorporation of Recitals</u>. Subject to this Agreement and the conditions stated herein, Recitals A through G, inclusive, are incorporated herein by this reference.

2. <u>Effectiveness of this Agreement</u>. This Agreement shall become effective when, and only when, the Bankruptcy Court enters an order approving both (a) this Agreement pursuant to Federal Rule of Bankruptcy Procedure 9019 and (b) the Trustee's agreement with Tyler Davis and TopDevz, LLC to release their purported lien on the SeaNet Lawsuit (the "Approval Order"). If this Agreement is not approved by the Bankruptcy Court within 90 days after the date of this

Agreement, this Agreement shall be null and void and of no force or effect, and shall not be admissible against the parties for any purpose.

3. Settlement Payment. Within ten (10) business days after entry of the Approval Order, SeaNet shall deliver to the Trustee the sum of $159,919.17 (the "Settlement Payment"). This payment is made by SeaNet on behalf of itself and Jensens Bay. The Settlement Payment shall be made by wire, check or money order and made payable to "Christopher R. Barclay, Chapter 7 Trustee" and delivered to the Trustee at the following address: Christopher R. Barclay, P.O. Box 2819, La Mesa, CA 91943-2819.

4. Dismissal of the SeaNet Lawsuit. Within ten (10) business days following the Trustee's actual receipt of the Settlement Payment, the Trustee shall file a Request for Dismissal, with prejudice, of the SeaNet Lawsuit in its entirety as to all parties and causes of action.

5. Mutual General Releases.

(a) Release by the Trustee. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, the Trustee, on behalf of the Debtors' bankruptcy estate, and his successors and assigns, hereby releases and forever discharges SeaNet and Jensens Bay, their officers, directors, employees and stockholders, jointly and severally, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liens, maritime liens, *in rem* claims against Motor Yacht Vacanza (USCG Official # 1282790), liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions (including, but not limited to, all avoidance actions of any type), of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement.

(b) Release by SeaNet. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, SeaNet, on its own behalf and on behalf of their successors and assigns, hereby releases and forever discharges the Trustee, all property of the Debtors' bankruptcy estate, the Debtors' bankruptcy estate, and their respective agents, attorneys, accountants, representatives, successors, and assigns, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liens, maritime liens, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions, of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement.

(c) Release by Jensens Bay. Except for the rights, duties, and obligations created or expressly preserved by this Agreement, Jensens Bay, on its own behalf and on behalf of their successors and assigns, hereby releases and forever discharges the Trustee, all property of the Debtors' bankruptcy estate, the Debtors' bankruptcy estate, and their respective agents, attorneys, accountants, representatives, successors, and assigns, in each case solely in such capacity, jointly and severally, from any and all claims, debts, liens, maritime liens, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorney's fees), damages, injuries, actions and causes of actions, of whatever kind or nature, whether legal or equitable, known or unknown, suspected or unsuspected, contingent or fixed, arising out of or related to any matter whatsoever from the beginning of time to the date of this Agreement.

(d) Acknowledgment and Waiver of California Civil Code § 1542. The Parties expressly waive any and all rights under section 1542 of the Civil Code of the State of California, which provides as follows:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

THE PARTIES EXPRESSLY WAIVE AND RELEASE ANY RIGHT OR BENEFIT WHICH THEY HAVE OR MAY HAVE UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, AND ANY SIMILAR STATUTE, CODE, LAW AND/OR REGULATION OF THE UNITED STATES, OR ANY STATE THEREOF, OR ANY OTHER JURISDICTION OUTSIDE OF THE UNITED STATES, TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN. In connection with such waiver and relinquishment, each Party acknowledges that the Party is aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which the Party now knows or believes to be true. Nevertheless, it is the intention of each Party, through the Party's release, to release all matters that are subject to this Agreement, and all claims relative thereto, which now exist, may exist, or heretofore have existed, in any jurisdiction or venue. In furtherance of such intention, the release herein given shall be and remain in effect as a full and complete release of such matters notwithstanding the discovery or existence of any such additional or different claims or facts relative thereto.

6. Voluntary Settlement. The Parties acknowledge and agree that each of them is entering into this Agreement freely and voluntarily and not acting under any misapprehension as to the effect hereof, and has acted and does hereby act freely and voluntarily and not under any coercion or duress.

7. No Mistake of Fact or Law. In entering into this Agreement, each Party recognizes that no facts or representations are ever absolutely certain. Accordingly, each Party assumes the risk of any mistake, and if it/he should subsequently discover that any understanding of the facts or of the law was incorrect, each party understands and expressly agrees that it/he shall not be entitled to set aside this Agreement by reason thereof, regardless of any mistake of fact or law.

8. Representations and Warranties. The Parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

(a) Each of the Parties has received, or has had the ability to obtain, independent legal advice from attorneys of their choice with respect to the advisability of making the agreements provided herein and with respect to the advisability of executing this Agreement. The Parties and their respective attorneys (if applicable) have made such investigation of the facts pertaining to this Agreement as they deem necessary.

(b) Except as otherwise expressly stated in this Agreement, the Parties have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation or promise of the other Party or any other person in entering into this Agreement, except as expressly stated in this Agreement. Each Party has relied upon its/his/her own investigation and analysis of the facts and not on any statement or representation made by any other Party in choosing to enter into this Agreement and the transactions contemplated herein.

(c) The Parties have not heretofore assigned or transferred, or purported to assign or transfer, to anyone, any of the claims, demands, obligations or actions based upon, arising out of, pertaining to, or concerned with any of the matters released in this Agreement, and that none of the matters being released and relinquished hereunder have been assigned, transferred, discharged or otherwise assigned to any other person or entity.

(d) The persons executing this Agreement have the authority to do so. The Trustee's execution of this Agreement is expressly subject to Bankruptcy Court approval.

(e) The persons executing this Agreement have not instituted any other legal action or other proceeding related to the subject matter described in this Agreement.

9. No Admission against Interest. Nothing contained in this Agreement or negotiations and communications leading up to it shall be construed as admissions against the interest of any of the parties. Except to enforce this Agreement, the terms of this Agreement, including, without limitation, the recitals, representations and releases made by any party shall have no force or effect and will not be binding upon, enforceable against or deemed an admission or acknowledgment of any fact by any party. This Agreement shall not be admissible as evidence in any action or proceeding except to enforce this Agreement, or to carry out the actions contemplated herein.

10. No Admission of Liability. No action taken by the parties, either previously or in connection with this Agreement, shall be deemed or construed to be an admission by the Parties of any fault or liability whatsoever in connection with any matter or thing. Nothing contained in or referred to in this Agreement shall be deemed to constitute an admission of liability nor responsibility, and it is recognized that this Agreement and the promises, covenants and conditions set forth herein as entered into by the parties hereto are for the purpose of avoiding further time and expense.

11. Miscellaneous.

(a) Except as provided herein, all covenants, releases, warranties, representations and indemnities made by the parties to one another pursuant to this

Agreement shall be and remain in full force and effect upon this Agreement becoming effective.

(b) The Parties agree to cooperate and execute and deliver such other instruments and perform such acts as may be appropriate or reasonably necessary, from time to time, to effectuate the agreements and understandings of the Parties, whether the same occur before or after the date of this Agreement.

(c) This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements, whether oral or written, between the parties with respect thereto. In addition, this Agreement may not be modified or amended, nor any of its provisions waived, except by an instrument in writing signed by all the parties.

(d) This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Parties.

(e) The headings of all sections of this Agreement are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction or interpretation of any term or provision hereof.

(f) To the extent that performance is to be governed by time, time shall be deemed to be of the essence hereof.

(g) This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern. The Bankruptcy Court shall retain exclusive jurisdiction to enforce the provisions of this Agreement.

(h) This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same Agreement. The parties acknowledge and agree that electronic signatures may be used in connection with the execution of this Agreement and such electronic signatures shall be legal and binding and shall have the same full force and effect as if a paper original of the Agreement had been delivered and signed using a handwritten signature. The words "execution," "signed," "signature," and similar words in this Agreement or in any document related to this Agreement, shall include images of manually executed signatures transmitted by e-mail or other electronic means (including, without limitation, "pdf," "tif," or "jpg") and other electronic signatures (including, without limitation, DocuSign).

(i) This Agreement is the product of negotiations of the Parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any party by reason of that Party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof.

(j) Each Party hereto shall bear all of its/his respective costs and expenses, including attorney's fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and required Bankruptcy Court approval of this Agreement. In the event that it becomes necessary for any party to this Agreement to take any action to interpret or enforce this Agreement, or any of its terms, and any Party thereafter incurs costs (including attorney's fees) as a result thereof, the prevailing party in such dispute shall be entitled, in addition to any judgment or award, to an award for all costs incurred (including reasonable attorney's fees). The prevailing Party shall further be entitled to an award of reasonable attorney's fees and related costs in connection with enforcement of any judgment, including enforcement following any appeal.

(k) Each Party agrees that it is solely responsible for any tax consequences which it may incur as a result of this Agreement. The Parties neither offer nor make any representation related to the characterization of the payments detailed herein for tax or related purposes, and the parties do not rely on any such statements. The Parties acknowledge their right to rely upon tax or other professionals for such advice or characterization.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed in the introductory paragraph of this Agreement.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By: ______________________
Christopher R. Barclay
Trustee

SEANET COMPANY, INC., A CALIFORNIA CORPORATION

By: ______________________
Michael F. Costa
President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

(j) Each Party hereto shall bear all of its/his respective costs and expenses, including attorney's fees, incurred in connection with all matters discussed herein and in the preparation, negotiation, execution, and required Bankruptcy Court approval of this Agreement. In the event that it becomes necessary for any party to this Agreement to take any action to interpret or enforce this Agreement, or any of its terms, and any Party thereafter incurs costs (including attorney's fees) as a result thereof, the prevailing party in such dispute shall be entitled, in addition to any judgment or award, to an award for all costs incurred (including reasonable attorney's fees). The prevailing Party shall further be entitled to an award of reasonable attorney's fees and related costs in connection with enforcement of any judgment, including enforcement following any appeal.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year listed in the introductory paragraph of this Agreement.

CHRISTOPHER R. BARCLAY,
Solely in his Capacity as the Chapter 7 Trustee for the Bankruptcy Estate of Ashkan Rajaee and Nassim Rajaee in U.S.B.C. Case No. 24-00617-CL7

By:________________________________
Christopher R. Barclay
Trustee

SEANET COMPANY, INC., A CALIFORNIA CORPORATION

By: Michael Costa
Michael F. Costa
President

10-01-2024

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

JENSENS BAY, LLC., A COLORADO LIMITED LIABILITY CORPORATION,

By: Michael Costa

Michael F. Costa for SeaNet Company, Inc.
as Manager of Jensens Bay, LLC

SeaNet Settlement Agreement - FINAL

10-01-2024

Signature Certificate

Reference number: GFEMN-2XIQF-TEHID-V8XNK

Signer	Timestamp	Signature
Michael Costa Email: mike@seanetco.com		Michael Costa
Sent:	01 Oct 2024 18:06:25 UTC	
Viewed:	01 Oct 2024 22:02:27 UTC	
Signed:	01 Oct 2024 22:03:11 UTC	IP address: 74.62.238.82
Recipient Verification:		Location: Garden Grove, United States
✔Email verified	01 Oct 2024 22:02:27 UTC	

Document completed by all parties on:

01 Oct 2024 22:03:11 UTC

PROOF OF SERVICE

I am over the age of eighteen years and am not a party to the within action. I am employed in the County of Orange, State of California, at the law offices of Finlayson Toffer Roosevelt & Lilly LLP, members of the bar of this Court. My business address is 15615 Alton Parkway, Suite 270, Irvine, California 92618. On October 23, 2024, I served ☑ a true copy / ☐ the original of the foregoing document(s) described as:

CHAPTER 7 TRUSTEE'S MOTION TO (A) APPROVE PROPOSED SETTLEMENT AGREEMENTS; AND (B) AUTHORIZE ABANDONMENT OF ESTATE PROPERTY; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF CHRISTOPHER R. BARCLAY

_✓_ **BY CM/ECF NOTICE OF ELECTRONIC FILING**: Pursuant to controlling General Orders, a true copy will be served by the Court via Notice of Electronic Filing ("NEF") and hyperlink to the document. I checked the CM/ECF docket for this case and determined that the parties on the attached Service List are on the Electronic Mail Notice List to receive NEF transmission at the electronic mail addresses noted.

___ **BY UNITED STATES MAIL**: I enclosed the document(s) in a sealed envelope or package to the parties on the attached Service List and placed it for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

___ **BY OVERNIGHT DELIVERY**: I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the parties on the attached Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

___ **BY ELECTRONIC MAIL**: I caused the document(s) to be sent to the parties on the attached Service List at the electronic mail addresses listed.

___ **BY FACSIMILE**: I faxed the document(s) to the parties on the attached Service List at the fax numbers listed. No error was reported by the fax machine that I used. A fax transmission record was printed, a copy of which is maintained by this office.

___ **BY MESSENGER SERVICE**: I provided the document(s) to a professional messenger service for delivery to the parties on the attached Service List.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. Executed on October 23, 2024.

/s/ Hind AbdulKader
Hind AbdulKader

In re Ashkan Mirfakhr Rajaee and Nassim Rajaee
U.S.B.C. S.D. Cal. Case No. 24-00617-CL7

SERVICE LIST

BY NEF

- **Christopher R. Barclay** admin@crb7trustee.com, mlcunanan@crb7trustee.com;QCRBARCLAY2@ecf.axosfs.com
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- **Leslie A. Cohen** leslie@lesliecohenlaw.com, jaime@lesliecohenlaw.com;olivia@lesliecohenlaw.com
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- **David Edward Hays** ehays@marshackhays.com, cmendoza@marshackhays.com;ehays@marshackhays.com;alinares@ecf.courtdrive.com
- **Elvina Rofael** elvina.rofael@usdoj.gov, Tiffany.L.Carroll@usdoj.gov;USTP.Region15@usdoj.gov
- **United States Trustee** ustp.region15@usdoj.gov

BY EMAIL

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Counsel for Joshua Lintz and Talentcrowd, LLC