

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:

Case No.: 19-14605-BKC-PGH

AMERICAN RESOURCE MANAGEMENT
GROUP, LLC (DE), *et al.*,
EIN: 35-2620369

Chapter 11
Jointly Administered¹

Debtors.

**TRUSTEE'S AMENDED² MOTION TO APPROVE
SETTLEMENT WITH ERIC & SHYLA CLINE, INCLUDING BAR ORDER**

Any interested party who fails to file and serve a written response to this motion within 21 days³ after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be canceled.

Barry E. Mukamal, the duly appointed Chapter 11 trustee (the "Trustee") in these jointly administered cases, moves pursuant to 11 U.S.C. § 105(a) and Federal Rule of Bankruptcy Procedure 9019, as well as Local Rules 9019-1 and 9013-1(D)(3)(b), for entry of an order approving the Settlement Agreement, including a bar order, attached hereto as Exhibit A (the "Settlement Agreement") between the Trustee on the one hand, and Eric and Shyla Cline (together,

¹ Additional Jointly Administered Chapter 11 Cases: (a) American Resource Management Group, LLC (IL), EIN: 45-4466948 (Case No. 19-14606); (b) ARMG Holdings, LLC (FL) f/k/a American Resource Management Group, LLC (FL), EIN: 46-4051532 (Case No. 19-14607); (c) Boomtown Holding Group, LLC (DE), EIN: 82-4694300 (Case No. 19-14608); (d) Redemption and Release, LLC (DE), EIN: 30-1041362 (Case No. 19-14609); (e) Redemption Holdings USA, LLC f/k/a Redemption and Release, LLC (FL), EIN: 45-3992101 (Case No. 19-14610); (f) Resort Exit Team LLC (FL), EIN: 83-4337729 (Case No. 19-14611); (g) Vacation Properties for Less, LLC (DE), EIN: 36-4894455 (Case No. 19-14612); and VPL Holdings, LLC (FL) f/k/a Vacation Properties for Less, LLC (FL), EIN: 82-1608783 (Case No. 19-14613).

² Amended to reflect service and consideration of the motion under negative notice pursuant to the Local Rules of the United States Bankruptcy Court for the Southern District of Florida.

³ By separate notice being served contemporaneously with this motion, customers receiving a summary of the proposed settlement with bar order will be given 30 days from today's service to file any written responses to the proposed settlement.

the “Clines”) on the other hand (collectively, the Trustee and the Clines shall be referred to as the “Parties,” and each individually, a “Party”), and issuing a bar order in favor of the Clines and the “Bar Order Recipients” (which are the Clines as well as Boomtown Consulting, LLC, Eric Cline 2018 Family Trust, Eric Cline Irrevocable Management Trust, Shyla Cline 2018 Family Trust, Shyla Cline Revocable Trust, Eric Cline Revocable Trust, Cline Irrevocable Trust, and Shyla Cline Irrevocable Management Trust). In support of the requested relief, the Trustee states as follows:

Jurisdiction and Venue

1. The Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

Background

2. On April 9, 2019 (the “Petition Date”), the Debtors filed nine voluntary Chapter 11 petitions (ECF No. 1) under the United States Bankruptcy Code, 11 U.S.C. § 101, et seq. (as amended, the “Bankruptcy Code”), which cases are being jointly administered under Case No. 19-14605-PGH (the “Bankruptcy Case”) and pending before the United States Bankruptcy Court for the Southern District of Florida (the “Court”).

3. The Debtors were held, operated and controlled by the Clines and Larry Scott Morse (“Morse”) (and collectively, the Clines and Morse are referred to as the “Principals”). The Debtors filed their Chapter 11 cases with the intention of orderly winding down their affiliated businesses. *See, e.g.* ECF Nos. 35, 36 and 37. On or about April 23, 2019, the Trustee was appointed to administer the Chapter 11 bankruptcy estates.

A. Debtors’ Timeshare Resolution Business

4. The Debtors advertised services to assist individuals who sought to modify, transfer or otherwise eliminate their timeshare benefits, obligations and interests owned at various resorts

and vacation-related properties (“Timeshare Exit Customers”). The Timeshare Exit Customers either have unencumbered timeshare interests owned free and clear but subject to ongoing fees, maintenance, association and tax obligations, or have encumbered timeshare interests purchased with a mortgage from the resort developer with ongoing mortgage obligations in addition to ongoing fees, maintenance, association and tax obligations.

5. The Debtors maintained a meaningful customer base through advertising on a variety of media outlets and digital content, in which they promoted providing certain guaranteed results to address the Timeshare Exit Customers’ desired resolution to modify, transfer or eliminate their timeshare interests, benefits and obligations with resort developers.

6. The advertisements of guaranteed services generally proffered results within 6-9 months as to unencumbered timeshare interests and approximately 18 months for encumbered timeshare interests.

7. As part of the services provided to Timeshare Exit Customers with encumbered timeshare interests, the Debtors also paid for and coordinated the customers’ retention of legal representation to assist those customers address their situations with resort developers. As of the Petition Date, the primary law firm financially sponsored by the Debtors was the law firm of Totten, Franqui, Davis & Burk, LLC (“TFDB”) under a group legal services plan, in which some of the members of that law firm also provided regulatory and compliance legal services to the Debtors under the separate law firm name of Franqui Totten, LLC (“FT”). The group legal services plan was not approved in multiple states which required regulatory/administrative approval, including Florida. As such, the Debtors would refer those encumbered Timeshare Exit Customers in which TFDB could not handle their potential legal action against the resort developers to another third party exit company, 1 Planet Media (“1PM”), which, in turn, coordinated the hiring of

separate counsel, U.S. Consumers Attorneys, P.A (“USCA”). The Debtors would receive a percentage commission of the net fees 1PM earned from the referred Timeshare Exit Customers.

B. Debtors’ Creditors: Timeshare Exit Customers, Resort Developers and Merchant Account Credit Card Processors

8. As of the Petition Date, the Debtors had thousands of Timeshare Exit Customers with timeshare interests, benefits and obligations with over 270 resort developers, in which the Debtors’ services to them remained pending. At the time of the Trustee’s appointment, the Debtors’ bankruptcy estates (the “Estates”) did not have enough money at the company level to provide refunds to the Timeshare Exit Customers with remaining timeshare interests. As such, there are Timeshare Exit Customers who have filed proofs of claim in the Estates, both before and after the court-established claims bar date, aggregating millions of dollars in fees paid to the Debtors without yet having received the guaranteed result of having their timeshare obligations released, transferred or otherwise eliminated.

9. In addition, at least two merchant account credit card processors (First Data Corporation o.b.o CardConnect LLC and First Data Merchant Services LLC) have filed proofs of claim in relation to their existing, putative and potential Timeshare Exit Customer chargeback exposure, in which the merchant account creditor card processors also have a contractual personal guarantee against the Principals. To the Trustee’s knowledge, these merchant account credit card processors filed a personal guarantee lawsuit against the Principals, which asserted a current chargeback liability amount of approximately \$400,000.

10. Two of the timeshare resort developers brought prepetition litigation in federal District Court against the Debtors, the Principals, and other co-defendants styled *Wyndham Vacation Ownership, Inc. et al. (“Wyndham Entities”) v. Totten Franqui Davis & Burk, et al*, Case NO.: 9:18-cv-81055 (S.D.Fla.), and *Bluegreen Vacations, Unlimited, Inc. et al. (“Bluegreen Entities”) v. Totten Franqui Davis & Burk, LLC, et. al.*, Case No.: 6:18-cv-02188 (M.D. Fla.)

(together, the “District Court Actions”) (and together, the Wyndham Entities and the Bluegreen Entities are referred to as the “Developers”).

11. The District Court Actions sought injunctive relief as to the Debtors, the Principals and others from engaging in their businesses in the third-party timeshare exit industry due to purported misconduct and alleged violations of law in their businesses, mostly related to the manner and content of the Debtors’ advertisements and the business model allegedly geared to incentivize individuals with timeshare interests to default on their obligations and seek transfers or deed-backs of their timeshare interests, benefits and obligations. The District Court Actions also sought to recover unliquidated damage amounts allegedly suffered by the Wyndham Entities and the Bluegreen Entities, respectively, as to an increase in the amount of defaults with respect to encumbered and unencumbered timeshare interests and obligations purportedly caused proximately by the Debtors and Principals. The Developers have filed proofs of claim in the Debtors’ bankruptcy estates seeking millions of dollars in damages. The Wyndham Entities and the Bluegreen Entities are the only resort developers to have filed proofs of claim in these Chapter 11 cases. To the Trustee’s knowledge, Wyndham and Bluegreen are also the only two resort developers to have filed personal lawsuits against the Principals to date.

C. Trustee’s Investigation of Potential/Existing Claims Against the Cline’s

12. The Trustee has conducted an extensive investigation as to claims the bankruptcy estates may have against the Clines. Among such claims the Trustee believes he may assert against the Clines on behalf, and/or for the benefit, of the creditors of the bankruptcy estates include: avoidance and recovery of avoidable transfers and improper/imprudent distributions, breach of fiduciary duties, breach of contract, and alternatively, unjust enrichment.

13. The Trustee affirms such claims are interrelated as to the Clines’ role, participation and implementation of the business model and practices which used the Debtor entities to: (a)

maximize the distributions to the Clines and place those interests ahead of the obligations owed to Timeshare Exit Customers, (b) misrepresent the guaranteed services promoted in advertisements and contracts with Timeshare Exit Customers and credit card merchant processors, respectively, causing those parties to provide funds to, and take on additional obligations and debts with, the Debtors, respectively, while also increasing the Timeshare Exit Customers' defaults on timeshare contracts held with the Developers causing damages to the Developers, and (c) not shift the duty of care owed to the general body of creditors ahead of the Debtors' interests at relevant prepetition periods. The Trustee believes that all existing, putative and potential claims against the Clines by interested parties and creditors who are receiving notice of this Settlement Agreement are interrelated and are based on the same nucleus of operative facts.

14. The Trustee contends that the Principals caused the Debtors to prematurely distribute millions of dollars in revenue to the Clines or for their benefit during applicable periods prior to the Petition Date. The Trustee asserts such distributions were done prematurely, improvidently and/or improperly as the recognition of revenue should have been deferred and upfront customer fees escrowed until the guaranteed timeshare exit obligations to the Timeshare Exit Customers were complete. As a result of these improvident distributions and the manner in which the timeshare exit services were advertised and carried out, then damages and/or financial exposure were suffered by the creditors of the bankruptcy estates, including, but not limited to, the Timeshare Exit Customers (including the merchant account credit card processors), the Developers, and other creditors.

D. The Clines' Defenses and Acknowledgements for Settlement Purposes

15. The Clines participated in several all-day mediation sessions with the Trustee facilitated by third party neutrals, in which the Clines provided meaningful personal financial information. As part of such mediations and otherwise in response to the Trustee allegations, the

Clines contend that they directed the Debtors' business decisions to be made with the proper business judgment at the time with information then known, and also the Debtors they controlled were able to fund the historical refund rate at all times and pay debts as they came due with net profits earned at the company level, and thus justify profit distributions and management fees paid to the Clines. Specifically, the Debtors were able to satisfy customer refund requests on an ongoing basis during the prepetition period, which they proffered typically occurred at a rate equal to 2% of the annual net revenue.

16. However, the Clines acknowledge they did not cause the Debtors to keep enough funds at the company level to provide refunds to all pending Timeshare Exit Customers such as in the event of a complete liquidation event occurring in these Debtors' Chapter 11 cases. In addition, the Clines acknowledge that the advertisement of guaranteed timeshare exit services was an incentive for Timeshare Exit Customers to retain the Debtors' services.

17. The Clines provided financial disclosures reflecting that a portion of the distributions they received from the Debtors were expended or otherwise used as part of exempt assets, such as their homestead, children's educational trusts, or other qualified insurance and retirement policies, or were more recently used to fund Debtor entity matters leading up to, as part of, and during the Debtors' Chapter 11 bankruptcy cases in which they filed UCC-1 financing statements for the prepetition portion and had argued they might be entitled to an administrative expense claim for the post-petition portion. Finally, the Clines acknowledge that their business decisions together were based on the same nucleus of operative facts and impacted the entire group of creditors of the Debtors' estates including the Timeshare Exit Customers and merchant account credit card processors, the Developers, and the other general creditors of the bankruptcy estates.

E. Settlement of Trustee Claims Includes Money and Injunction from the Cline's

18. As described in more detail below and in the attached Settlement Agreement, the Clines have agreed as part of a settlement of, and bar order against, any and all claims that exist or may exist against them relative to their ownership of, direction as to, participation in, and monies received from, the Debtors' businesses – to not only provide a monetary settlement that includes the Trustee reaching some of their exempt assets including their homestead, but also the Clines on behalf of themselves and their related entities and affiliates would agree to be enjoined from ever working in the timeshare exit industry besides assisting the Trustee liquidate the bankruptcy estates, nor will they receive any remuneration from any referrals within the timeshare exit industry. They will be completely out of the timeshare exit industry. This addresses the injunctive relief that had been sought by the Wyndham Entities and the Bluegreen Entities in the District Court Actions.

19. The Clines would also cooperate completely and honestly as to other third party claims and other asset recovery and administration the Trustee is examining and will examine during the administration of these estates as set forth further below. Finally, any bar order which is contemplated to include the pending District Court Actions and any other creditor with personal claims against the Principals would specifically NOT preclude any suit or other action for any conduct of the Clines or the Bar Order Recipients (defined above) within the timeshare exit industry that post-dates the entry of a court-approved bar order affecting applicable parties.

F. The Settlement Agreement

20. The Parties have agreed to the terms set forth in the Settlement Agreement, attached hereto as **Exhibit A**. In sum:

Effective upon the entry of a final, non-appealable Bankruptcy Court order approving this settlement agreement (“Final Settlement Order”):

- The Clines, their authorized representatives and/or among the Bar Order Recipients are paying \$2.675 million to the Bankruptcy Estates within 10 days after settlement is approved with finality by the Court.
- Eric and Shyla Cline consent to a lien against their residential homestead in the additional payment amount of \$1.075 million, which could be reduced by the amount of timeshare interests they continue to resolve for the benefit of ARMG timeshare exit customers after the settlement.
- Eric and Shyla Cline are providing continuing financial disclosures and potentially up to another \$100,000 in personal property. Also the Clines will turn over a Range Rover vehicle and not contest the net proceeds to be used by the bankruptcy estates.
- Eric and Shyla Cline agree to an injunction from ever working in the timeshare exit industry or receiving any compensation or other benefits from the timeshare exit industry.
- Eric and Shyla Cline will actively cooperate to assist the Trustee with respect to investigation and pursuit of claims against third parties, including, but not limited to, information about jewelry paid for by the Debtors, information about other participants in or dealing with the Debtors’ business or otherwise in the timeshare exit industry.
- The Clines shall provide all financial and tax information requested by the Trustee in their custody, possession or control, including, but not limited to, all Debtors’ transactional activity in 2019, in a complete format necessary and suitable to enable the Trustee to timely file tax returns for the Debtors for the tax year ended 2019. The Clines will also timely provide additional data to the Trustee within a 48-hour response time in the event the Trustee or his professionals have questions regarding the responsive information provided or otherwise relative to the Trustee’s preparation of the Debtors’ 2019 corporate tax returns.
- Eric and Shyla Cline agree that the Trustee may also pursue additional assets that are not disclosed to the Trustee by Eric and Shyla Cline as of the date of entry of the Final Settlement Order.
- Except for remaining, continuing obligations referenced under the Settlement Agreement, the Trustee and Eric & Shyla Cline mutually release one another of all claims they brought or could have brought against each other, including any proofs of claim or claims for administrative expenses against the estates that the Cline’s or their insiders and affiliated entities could have filed, and the Cline’s will cause their affiliated entities to terminate previously filed UCC-1 financing statements against the applicable Debtors.

- On account of (1) the financial considerations, (2) industry-wide injunction, and (3) investigation & litigation support cooperation provided by Eric and Shyla Cline under this Settlement Agreement, Eric and Shyla Cline and their specified affiliated insider entities would receive a bar order prohibiting any and all potential or existing claims against them to the fullest extent allowed under the law of the Eleventh Circuit, including all claims arising from the Cline's actions, connection or relationships to and with any of the Debtor entities or creditors of the Debtor entities ("Barred Claims").

Relief Requested

21. The Trustee recommends approval of the Settlement Agreement because it is fair and reasonable, falls within the range of possible litigation outcomes, and is in the best interest of the estates because full settlement precludes any risks associated with litigation in this matter. The Trustee, therefore, respectfully requests that the Court enter an order granting this Motion and approving the Settlement Agreement.

22. "Settlements are generally favored in bankruptcy proceedings, in that they provide for an often needed and efficient resolution in a bankruptcy case." *Tindall v. Mavrode (In re Mavrode)*, 205 B.R. 716, 719 (Bankr. D.N.J. 1997); *see also In re Stein*, 236 B.R. 34, 37 (D. Ore. 1999) ("Pursuant to Bankruptcy Rule 9019(a), compromises are favored in bankruptcy..."). The Supreme Court has held that compromises and settlements in bankruptcy should be approved if they are "fair and equitable." *Protective Comm. for Indep. Stockholders of T.M.T. Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1960).

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

24. As this Court has previously found, "approval of a settlement in a bankruptcy proceeding is within the sound discretion of the Court, and will not be disturbed or modified on appeal unless approval or disapproval is an abuse of discretion." *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988) (internal citations omitted). The test is whether the proposed

settlement "falls below the 'lowest point in the range of reasonableness.'" *Id.* at 891 (internal citations omitted).

25. The standard for approving a settlement or compromise is well established. The Court must consider all of the relevant facts and evaluate whether the proposed compromise falls below the "lowest point in the range of reasonableness." *In re Martin*, 490 F.3d 1272, 1276 (11th Cir. 2007) (citing *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983)); *GMGRSST, Ltd. v. Menotte (In re Air Safety Intl., L.C.)*, 336 B.R. 843 (S.D. Fla. 2005); *In re Southeast Banking Corp.*, 314 B.R. 250, 272 (Bankr. S.D. Fla. 2004) (citations omitted). If the settlement does not fall below the lowest point in the range of reasonableness, the Court should approve the settlement.

26. As the former Fifth Circuit Court of Appeals held in *Rivercity v. Herpel (In re Jackson Brewing Co.)*, "[t]o assure a proper compromise the bankruptcy judge must be apprised of all necessary facts for an intelligent, objective and educated evaluation. [The judge] must compare the terms of the compromise with the likely rewards of litigation." 624 F.2d 599, 602 (5th Cir. 1980) (citing *Protective Comm.*, 390 U.S. at 425). Approval of a settlement "does not depend upon establishing as a matter of legal certainty that the subject claim or counterclaim is or is not worthless or valuable." *Florida Trailer and Equipment Co. v. Deal*, 284 F.2d 567, 571 (5th Cir. 1960). Rather, the Court's responsibility is only to "canvass the issues to see 'whether the settlement falls below the lowest point in the zone of reasonableness.'" *W.T. Grant Co.*, 699 F.2d at 608 (quoting *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972)). As the court stated in *Florida Trailer*:

[T]he very uncertainties of outcome in litigation, as well as the avoidance of wasteful litigation and expense, lay behind the Congressional infusion of a power to compromise. This is a recognition of the policy of the law generally to encourage settlements. This could hardly be achieved if the test on hearing for approval meant establishing success or failure to a certainty.

284 F.2d at 571.

27. In order to evaluate whether to approve a settlement, the Court must consider the four factors set forth by the Eleventh Circuit in *Wallis v. Justice Oaks, II, Ltd.*, (*In re Justice Oaks II, Ltd.*), 898 F.2d 1544, 1549 (11th Cir. 1990) (the “Justice Oaks II Factors”):

(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.

28. Applying each of these factors to the circumstances of this case, the Settlement Agreement falls well above the lowest point in the range of reasonableness, and accordingly should be approved. The Settlement Agreement is the product of mediated negotiations between the Parties, including the exchange of legal theories, documents, and other matters advanced by each Party in support of its position, and multiple correspondence and telephone conferences between the Parties' professionals. The Settlement Agreement resolves a great number of the pending disputes between the Parties without the need for protracted, costly, and uncertain litigation.

29. **Probability of Success.** The Trustee and Clines dispute the scope and extent that the Clines may be liable to the Debtors' estates for transfers received from the Debtors, alleged breach of fiduciary duty and other related claims. While the Trustee feels very strong in the viability of such claims as to recovery on the Trustee's putative damage claims, the extent and amount of such recovery remains uncertain and disputed, and litigation always carries certain inherent risk as a sunk cost. This factors weighs in favor of settlement.

30. **Collection Difficulty.** Difficulty of collection is a concern in this case as the Trustee's review of the Clines' finances is that the Clines do not appear to have enough available money on hand to fund a judgment meaningfully larger than the proposed settlement. In fact, after the initial \$2.675 million down-stroke payment, the rest of the settlement funding will occur over a significant payment period in which the Clines are collateralizing up to an additional \$1.075

million payment amount over such time with a lien against their residential homestead. The Clines are also assigning other assets and third party claim rights to the Estates as part of the settlement amount with the Estates. Thus, this factor weighs in favor of settlement, as the Trustee believes it provides as much or close to what the Estates likely would have collected on a judgment in favor of the Estates against the Clines but with payments provided on tangible, expedited terms relative to the down-stroke which will help fund creditor distributions, and for which the subsequent payment of funds are collateralized with a lien against the Clines' homestead.

31. **Complexity/Cost of Litigation.** The disputes the Parties propose to compromise and resolve by way of the Settlement Agreement present legal and factual issues of substantial complexity that, if litigated, would impose extensive litigation costs upon the Estates and would delay administration of the case. The cost savings achieved by the Parties' resolution, while the Estates obtain a meaningful recovery, again weighs heavily in favor of settlement.

32. **Interests of Creditors.** Analysis of the foregoing components makes clear that approval of the Settlement Agreement is in the best interests of the Estates and creditors. In particular, the Settlement Agreement provides for the Estates to receive a significant settlement amount to help fund a meaningful creditor distribution.

Legal Standard for Bar Orders

33. Under both federal and Florida law, this Court has authority to enter a Bar Order to facilitate the repose and finality that is contemplated by the Settlement Agreement. See, e.g., *SE Prop Holdings, LLC v. Seaside Eng'g & Surveying (In re Seaside Eng'g & Surveying)*, 780 F.3d 1070 (11th Cir. 2015); *In re Munford*, 97 F.3d 449, 454-55 (11th Cir. 1996); *In re Oil & Gas Litig. (Wald v. Wolfson)*, 967 F.2d 489, 496 (11th Cir. 1992); *St. Paul Fire & Marine Ins. Co. v. Shure*, 647 So.2d 877, 880 (Fla.4th DCA 1994); *In re Jiangbo Pharms., Inc.*, 520 B.R. 316 (Bankr. S.D. Fla. 2014), *aff'd.*, 2015 WL 5604438 (S.D. Fla. Sept. 24, 2015); *In re Capital Invs. USA, Inc. et*

al., Case No. 09-36408-BKC-LMI, ECF No. 2499 (Aug. 10, 2012); *In re Solar Cosmetic Labs, Inc.*, Case No. 08-15793-BKC-LMI, 2010 WL 3447268 (Bankr. S.D. Fla. Aug. 27, 2010); see also *In re Grau*, 267 B.R. 896 (Bankr.S.D.Fla. 2001).

34. The Bar Order requested here has been narrowly tailored to accomplish the goals of repose and finality and is necessary to achieve the complete resolution of all issues. It is an essential element of the Clines entering into the settlement that has been negotiated at arm's length between the Parties, which has been entered into in good faith and with no intention to disadvantage the parties which are subject to the Bar Order. Under the circumstances, the Trustee submits the Bar Order is an appropriate exercise of the Court's sound discretion to facilitate settlements and promote the consensual resolution of disputes.

35. In *Munford*, the Eleventh Circuit held that the Court has the authority to enter a bar order provided that it is "fair and equitable." In making such a determination, the Court considered some of the following issues: (a) the interrelatedness of the claims that the bar order precludes; (b) the likelihood of non-settling defendants to prevail on the barred claim; (c) the complexity of the litigation against the bar order beneficiary; and (d) the continued litigation by the estate(s) and other parties against the bar order beneficiary will deplete resources. 97 F.3d at 454-55.

36. **Interrelatedness of Claims Being Barred.** As noted, the Trustee seeks to settle those claims that were or could have been asserted against the Clines in these bankruptcy cases or in any other pending litigation including, but not limited to, with respect to litigation brought by the Developers or the merchant account credit card processors. The Barred Claims are interrelated to the Claims the Trustee is seeking to settle with the Clines because they arise out of the same facts as those underlying the proofs of claim such creditors have filed before this Court and seek recovery against the Estates. In addition, the Trustee has investigated the proofs of claim filed in the case and those actions that have been filed against the Clines outside of these bankruptcy cases,

and the Trustee has concluded that there are no material claims or causes of action that exist with respect to the Clines or their insiders and affiliated entities others than those already framed by or raised in pending litigation discussed in this Settlement Agreement, proofs of claim filed against the Debtors' Estates, or other pleadings filed in the Bankruptcy Case. All of the Barred Claims are interrelated with the facts and circumstances underlying, and whose claims are interrelated with, the Debtors' pending Chapter 11 bankruptcy proceedings before this Court.

37. **Likelihood of Persons to Prevail on Barred Claims against the Cline's.** All litigation claims come with certain levels of uncertainty. With the Developers, bringing all of their claims to trial before two different District Courts, is no exception. The same holds true for the merchant account credit card processors. The scope of relief sought and damages component in the District Court Actions and state court guaranty collection actions remain untested, and all would be triable matters with available defenses. In addition, the Trustee has made a meaningful investigation of the claims being barred, and believes that the consideration given by the Clines pursuant to the Settlement Agreement sufficiently takes into account the viability and universe of claims being settled by the Trustee, including the Barred Claims. The merchant account credit card processors filed proofs of claim against the Estates and will participate in creditor distributions, for which the Clines' settlement contribution would currently serve as the largest funding component of these cases to date. The Trustee also is working cooperatively with the merchant account credit card processors to respond, challenge and minimize chargeback/refund requests by timeshare exit customers. The Developers have filed proofs of claim for damages against the Debtors' Estates in which they sought the same damages in the pending District Court Actions. The Developers also will participate in the creditor distribution with treatment to be discussed further with the Trustee and subject to further Bankruptcy Court order. A meaningful part of the Developers' litigation against the Clines sought injunctive relief to have the Clines

never participate or received any direct or indirect compensation or benefits again in the timeshare exit industry. The Clines have agreed to such injunctive relief as evidenced by the entry of a Stipulated Final Permanent Injunction Order [DE 326] in the Wyndham Vacation Ownership, Inc. et al. v. Totten Franqui Davis & Burk, LLC, Case No. 18-81055- CIV-ALTMAN/Reinhart; United States District Court, Southern District of Florida, and (ii) Order and Permanent Injunction [DE 120] in the Bluegreen Vacations Unlimited, Inc. and Bluegreen Vacations Corporation v. Totten Franqui Davis & Burk, LLC, et al.; Case No. 6:18-cv-02188-WWB-DCI, as set forth in the Notice of Filing in this Bankruptcy Court (ECF No. 462).

38. **Complexity of Litigation.** The issues in this case are complex, fact-intensive and involve the interplay of bankruptcy law, Federal statutory law, federal and state common law and contracts with regarding to creditors and customers alike that would be involved in the Trustee's comprehensive litigation against the Clines for the benefit of the Estates. The complexity of the issues necessarily contributes to the time and expense associated with such litigation.

39. **Likelihood of Depletion of the Resources of the Estates.** In the first instance, the Estates' assets are not being depleted by the settlement; indeed, the Trustee believes the settlement will augment the Estates' assets, both by increasing the funds available for creditor distribution and by avoiding litigation expenses. The continued litigation against the Clines in separate multiple fora by multiple parties all addressing allegations of obligations owed by the Clines arising from their conduct as control and/or guarantor persons of the Debtors would severely impact the amount of funds and assets that would be available for recovery by the Estates against the Clines after judgment or at a subsequent settlement at a later time.

40. Ultimately, the Parties' intent to enter into the Settlement Agreement was and is to address any and all claims between them arising out of the Clines' alleged role and participation in the Debtors and causing the Debtors to take certain actions or inaction causing damages to

creditors, including timeshare exit customers, the Developers, the merchant account credit card processors, and other general creditors of the Debtors. Without the Bar Order and release negotiated as part of a formal judicial settlement conference that will meaningfully assist to fund creditor distributions, the Clines would not have agreed to provide the meaningful consideration set forth in the Settlement Agreement, nor resolved these highly litigious matters causing a depletion of resources. The Settlement Agreement, if approved, enables the Estates to realize an expedited collection of \$2.675 million in funds and collateralize up to another \$1.075 million in additional settlement payments, plus the assignment and/or turnover of a Range Rover and other personal property, which the aggregate recovery by the Trustee shall be one of the integral sources of funds for distributions to creditors, while having the Clines agree to an injunction to never participate in the timeshare exit industry again. The proposed Bar Order here is a material term of the Settlement Agreement, and is necessary to achieve the complete resolution of all issues. The Clines' bear sole responsibility for enforcing the Bar Order with respect to Barred Claims. All parties who will be subject to the Bar Order benefit from the terms of the Settlement Agreement and, under the circumstances, the Bar Order is fair and equitable.

Waiver of Stay

41. This Settlement Agreement includes the use and disposition of rights with respect to property that will affect the Debtors' Estates, including but not limited to, the imposition of a consensual lien against the Cline's homestead property for the benefit of the Estates. As such, the Trustee further requests that any order approving this Motion be effective immediately, thereby waiving the 14-day stay period imposed by Bankruptcy Rule 6004(h). This waiver of the 14-day stay period is necessary for the Settlement Agreement to be executed and implemented as expeditiously as possible and within the time frames contemplated by the Trustee and the Cline's.

Accordingly, the Trustee hereby requests that the Court eliminate the 14-day stay periods imposed by Bankruptcy Rule 6004(h).

Conclusion

42. In sum, the Settlement Agreement (including the Bar Order) avoids lengthy, burdensome, and expensive litigation and, in an exercise of the Trustee's sound and prudent business judgment after extensive consultation with his counsel and advisors, is a reasonable compromise of the claims asserted by, against and between the Debtors' Estates and the Cline's, as well as address the claims of parties with Barred Claims. Accordingly, the Trustee asserts that the Settlement Agreement (including the Bar Order) satisfies all four of the *Justice Oaks II* Factors and other considerations for the entry of a Bar Order, including the *Munford* considerations and those discussed in its progeny, and requests that the Settlement Agreement (including the Bar Order) and the other relief requested in this Motion be approved in their entirety.

43. Pursuant to Local Rule 9013-1(D)(2), a copy of the proposed Order is attached as Exhibit B.

WHEREFORE, the Trustee respectfully requests that the Court enter an order, substantially in the form of the proposed order attached as Exhibit B: (a) granting this Motion; (b) approving the Settlement Agreement; and (c) granting such other relief as the Court deems just and proper.

KOZYAK TROPIN & THROCKMORTON, LLP
Counsel for Barry E. Mukamal, as Chapter 11 Trustee
2525 Ponce de Leon Blvd., 9th Floor
Miami, FL 33134
Tel.: (305) 372-1800
Fax: (305) 372-3508
E-mail: clc@kttl.com
das@kttl.com

By: /s/ David A. Samole
Coral Lopez-Castro
Fla. No. 863830
David A. Samole
Fla. Bar No. 582761

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on March 20, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day (i) via transmission of Notice of Electronic Filing generated by CM/ECF on all counsel of record or pro se parties who are authorized to receive electronically Notices of Electronic Filing in this bankruptcy case; and (ii) prepaid, first class U.S. mail upon all parties listed in the attached Service List.

By: /s/ David A. Samole
David A. Samole

SERVICE LIST – VIA U.S. MAIL

Gavin Gaukroger, Esq.
Berger Singerman LLP
350 East Los Olas Blvd, Ste 1000
Fort Lauderdale, FL 33301-4215

Bilzin Sumberg, LLP
Attn Jeffrey Snyder, Esq.
1450 Brickell Ave, Suite 2300
Miami, FL 33131-3456

Internal Revenue Service
Centralized Insolvency Operations
PO Box 7346
Philadelphia, PA 19101-7346

Joseph Pack, Esq.
White & Case LLP
Southeast Financial Center
200 South Biscayne Boulevard, Suite 4900
Miami, FL 33131-2352

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov

In re:

Case No.: 19-14605-BKC-PGH

AMERICAN RESOURCE MANAGEMENT
GROUP, LLC (DE), *et al.*,
EIN: 35-2620369

Chapter 11
Jointly Administered¹

Debtors.

STIPULATION FOR SETTLEMENT AGREEMENT AND BAR ORDER

This Stipulation for Settlement and Bar Order (the "Settlement Agreement") is made this 9th day of March 2020 by and between (a) Barry E. Mukamal, not individually, but as the duly appointed Chapter 11 trustee (the "Trustee") in these jointly administered cases and (b) Eric and Shyla Cline (the "Clines"). The Trustee and the Clines collectively shall be referred to as the "Parties."

RECITALS

WHEREAS, on April 9, 2019 (the "Petition Date"), the Debtors filed nine voluntary Chapter 11 petitions (ECF No. 1) under the United States Bankruptcy Code, 11 U.S.C. § 101, et seq. (as amended, the "Bankruptcy Code"), which cases are being jointly administered under Case No. 19-14605-PGH (the "Bankruptcy Case") and pending before the United States Bankruptcy Court for the Southern District of Florida (the "Court"). The Debtors filed their Chapter 11 cases with the intention of orderly winding down their affiliated businesses. See, e.g. ECF Nos. 35, 36 and 37. The Debtors were held, operated and controlled by the Clines and Larry Scott Morse ("Morse") (and collectively, the Clines and Morse are referred as the "Principals."). On or about April 23, 2019, the Trustee was appointed to administer the Chapter 11 bankruptcy estates.

¹ Additional Jointly Administered Chapter 11 Cases: (a) American Resource Management Group, LLC (IL), EIN: 45-4466948 (Case No. 19-14606); (b) ARMG Holdings, LLC (FL) f/k/a American Resource Management Group, LLC (FL), EIN: 46-4051532 (Case No. 19-14607); (c) Boomtown Holding Group, LLC (DE), EIN: 82-4694300 (Case No. 19-14608); (d) Redemption and Release, LLC (DE), EIN: 30-1041362 (Case No. 19-14609); (e) Redemption Holdings USA, LLC f/k/a Redemption and Release, LLC (FL), EIN: 45-3992101 (Case No. 19-14610); (f) Resort Exit Team LLC (FL), EIN: 83-4337729 (Case No. 19-14611); (g) Vacation Properties for Less, LLC (DE), EIN: 36-4894455 (Case No. 19-14612); and VPL Holdings, LLC (FL) f/k/a Vacation Properties for Less, LLC (FL), EIN: 82-1608783 (Case No. 19-14613).

A. Debtors' Timeshare Exit Business

WHEREAS, the Debtors advertised services to assist individuals who sought to modify, transfer or otherwise eliminate their timeshare benefits, obligations and interests owned at various resorts and vacation-related properties ("Timeshare Exit Customers"). The Timeshare Exit Customers either have unencumbered timeshare interests owned free and clear but subject to ongoing fees, maintenance, association and tax obligations, or have encumbered timeshare interests purchased with a mortgage from the resort developer with ongoing mortgage obligations in addition to ongoing fees, maintenance, association and tax obligations.

WHEREAS, the Debtors maintained a meaningful customer base through advertising on a variety of media outlets and digital content, in which they promoted providing certain guaranteed results to address the Timeshare Exit Customers' desired resolution to modify, transfer or eliminate their timeshare interests, benefits and obligations with resort developers. The advertisements of guaranteed services generally proffered results within 6-9 months as to unencumbered timeshare interests and approximately 18 months for encumbered timeshare interests. As part of the services provided to Timeshare Exit Customers with encumbered timeshare interests, the Debtors also paid for and coordinated the customers' retention of legal representation to assist those customers address their situations with resort developers. As of the Petition Date, the primary law firm financially sponsored by the Debtors was the law firm of Totten, Franqui, Davis & Burk, LLC ("TFDB") under a group legal services plan, in which some of the members of that law firm also provided regulatory and compliance legal services to the Debtors under the separate law firm name of Franqui Totten, LLC ("FT"). The group legal services plan was not approved in multiple states which required regulatory/administrative approval, including Florida. As such, the Debtors would refer those encumbered Timeshare Exit Customers in which TFDB could not handle their potential legal action against the resort developers to another third party exit company, 1 Planet Media ("IPM"), which, in turn, coordinated the hiring of separate counsel, U.S. Consumers Attorneys, P.A ("USCA"). The Debtors would receive a percentage commission of the net fees IPM earned from the referred Timeshare Exit Customers.

B. Debtors' Creditors: Timeshare Exit Customers, Resort Developers and Merchant Account Credit Card Processors

WHEREAS, as of the Petition Date, the Debtors had thousands of Timeshare Exit Customers with timeshare interests, benefits and obligations with over 270 resort developers, in which the Debtors' services to them remained pending. At the time of the Trustee's appointment, the Debtors' bankruptcy estates did not have enough money at the company level to provide refunds to the Timeshare Exit Customers with remaining timeshare interests. As such, there are Timeshare Exit Customers who have filed proofs of claim in the Debtors' bankruptcy estates, both before and after the court-established claims bar date, aggregating millions of dollars in fees paid to the Debtors without yet having received the guaranteed result of having their timeshare obligations released, transferred or otherwise eliminated. In addition, at least two merchant account credit card processors (First Data Corporation o.b.o CardConnect LLC and First Data Merchant Services LLC) have filed proofs of claim in relation to their existing, putative and potential Timeshare Exit Customer chargeback exposure, in which the merchant account creditor card processors also have a contractual personal guarantee against the Principals. To the Trustee's

knowledge, these merchant account credit card processors filed a personal guarantee lawsuit against the Principals, which asserted a current chargeback exposure amount of approximately \$400,000. There are other Timeshare Exit Customers who have not filed proofs of claim or are continuing to file claims after the claims bar date for a variety of reasons despite receiving proper notice.

WHEREAS, two of the timeshare resort developers brought prepetition litigation in federal District Court against the Debtors, the Principals, and other co-defendants styled *Wyndham Vacation Ownership, Inc. et al.* (“*Wyndham Entities*”) v. *Totten Franqui Davis & Burk, et al.*, Case NO.: 9:18-cv-81055 (S.D.Fla.), and *Bluegreen Vacations, Unlimited, Inc. et al.* (“*Bluegreen Entities*”) v. *Totten Franqui Davis & Burk, LLC, et al.*, Case No.: 6:18-cv-02188 (M.D. Fla.) (together, the “District Court Actions”) (and together, the Wyndham Entities and the Bluegreen Entities are referred to as the “Developers”). The District Court Actions seek injunctive relief as to the Debtors, the Principals and others from engaging in their businesses in the third-party timeshare exit industry due to purported misconduct and alleged violations of law in their businesses, mostly related to the manner and content of the Debtors’ advertisements and the business model allegedly geared to incentivize individuals with timeshare interests to default on their obligations and seek transfers or deed-backs of their timeshare interests, benefits and obligations. The District Court Actions also sought to recover unliquidated damage amounts allegedly suffered by the Wyndham Entities and the Bluegreen Entities, respectively, as to an increase in the amount of defaults with respect to encumbered and unencumbered timeshare interests and obligations purportedly caused proximately by the Debtors and Principals. The Developers have filed proofs of claim in the Debtors’ bankruptcy estates seeking millions of dollars in damages. The Wyndham Entities and the Bluegreen Entities are the only resort developers to have filed proofs of claim in these Chapter 11 cases. To the Trustee’s knowledge, Wyndham and Bluegreen are also the only two resort developers to have filed personal lawsuits against the Principals to date.

C. Trustee’s Investigation of Potential/Existing Claims Against the Clines

WHEREAS, the Trustee has conducted an extensive investigation as to claims the bankruptcy estates may have against the Clines. Among such claims the Trustee believes he may assert against the Clines on behalf, and/or for the benefit, of the creditors of the bankruptcy estates include: avoidance and recovery of avoidable transfers and improper/imprudent distributions, breach of fiduciary duty, breach of contract, causing the Debtors’ tortious interference with a business relationship and violations of various consumer advertising rules, directing the Debtors (though perhaps with legal advice) as to their participation in, and sponsorship of, the group legal services plan, and alternatively, unjust enrichment. The Trustee affirms such claims are interrelated as to the Cline’s role, participation and implementation of the business model and practices which used the Debtor entities to: (a) maximize the distributions to the Clines and place those interests ahead of the obligations owed to Timeshare Exit Customers, (b) misrepresent the guaranteed services promoted in advertisements and contracts with Timeshare Exit Customers and credit card merchant processors, respectively, causing those parties to provide funds to, and take on additional obligations and debts with, the Debtors, respectively, while also increasing the Timeshare Exit Customers’ defaults on timeshare contracts held with the Developers causing damages to the Developers, and (c) not shift the duty of care owed to the general body of creditors

ahead of the Debtors' interests at relevant prepetition periods. The Trustee believes that all existing, putative and potential claims against the Clines by interested parties and creditors who are receiving notice of this Settlement Agreement are interrelated and are based on the same nucleus of operative facts.

WHEREAS, the Trustee contends that the Principals caused the Debtors to prematurely distribute millions of dollars in revenue to the Clines or for their benefit during applicable periods prior to the Petition Date. The Trustee asserts such distributions were done prematurely, improvidently and/or improperly as the recognition of revenue should have been deferred and upfront customer fees escrowed until the guaranteed timeshare exit obligations to the Timeshare Exit Customers were complete. As a result of these improvident distributions and the manner in which the timeshare exit services were advertised and carried out, then damages and/or financial exposure were suffered by the creditors of the bankruptcy estates, including, but not limited to, the Timeshare Exit Customers (including the merchant account credit card processors), the Developers, and other creditors.

D. The Cline's Defenses and Acknowledgements for Settlement Purposes

WHEREAS, the Clines participated in several all-day mediation sessions with the Trustee facilitated by third party neutrals, in which the Clines provided meaningful personal financial information. As part of such mediations and otherwise in response to the Trustee allegations, the Clines contend that they directed the Debtors' business decisions to be made with the proper business judgment at the time with information then known, and upon advice of counsel, and also the Debtors they controlled were able to fund the historical refund rate at all times and pay debts as they came due with net profits earned at the company level, and thus justify profit distributions and management fees paid to the Clines. Specifically, the Debtors were able to satisfy customer refund requests on an ongoing basis during the prepetition period, which they proffered typically occurred at a rate equal to 2% of the annual net revenue. However, the Clines acknowledge they did not cause the Debtors to keep enough funds at the company level to provide refunds to all pending Timeshare Exit Customers such as in the event of a complete liquidation event occurring in these Debtors' Chapter 11 cases. In addition, the Clines acknowledge that the advertisement of guaranteed timeshare exit services was an incentive for Timeshare Exit Customers to retain the Debtors' services. Further, the Clines provided financial disclosures reflecting that a portion of the distributions they received from the Debtors were expended or otherwise used as part of exempt assets, such as their homestead, children's educational trusts, or other qualified insurance and retirement policies, or were more recently used to fund Debtor entity matters leading up to, as part of, and during the Debtors' Chapter 11 bankruptcy cases in which they filed UCC-1 financing statements for the prepetition portion and had argued they might be entitled to an administrative expense claim for the post-petition portion. Finally, the Clines acknowledge that their business decisions together were based on the same nucleus of operative facts and impacted the entire group of creditors of the Debtors' estates including the Timeshare Exit Customers and merchant account credit card processors, the Developers, and the other general creditors of the bankruptcy estates.

E. Settlement of Trustee Claims Includes Money and Injunction from the Clines

WHEREAS, as described in more detail below, the Clines have agreed as part of a settlement of, and bar order against, any and all claims that exist or may exist against them relative to their ownership of, direction as to, participation in, and monies received from, the Debtors' businesses – to not only provide a monetary settlement that includes the Trustee reaching some of their exempt assets including their homestead, but also the Clines on behalf of themselves and their related entities and affiliates would agree to be enjoined from ever working in the timeshare exit industry besides assisting the Trustee liquidate the bankruptcy estates, nor will they receive any remuneration from any referrals within the timeshare exit industry. They will be completely out of the timeshare exit industry. This addresses the injunctive relief that had been sought by the Wyndham Entities and the Bluegreen Entities in the District Court Actions. The Clines would also cooperate completely and honestly as to other third party claims and other asset recovery and administration the Trustee is examining and will examine during the administration of these estates as set forth further below. Finally, any bar order which is contemplated to include the pending District Court Actions, pending civil actions in Florida Circuit Court to enforce personal guarantees provided by the Clines, and any other creditor with personal claims against the Principals would specifically NOT preclude any suit or other action for any conduct of the Clines or the Bar Order Recipients within the timeshare exit industry that post-dates the entry of a court-approved bar order affecting applicable parties.

F. Settlement and Bar Order Authority

WHEREAS, the Trustee represents and warrants that he has full and complete authority to enter this Settlement Agreement on behalf of the Debtors' estates subject to Bankruptcy Court approval, and the Clines represent and warrant that they have full and complete authority to enter this Settlement Agreement on behalf of themselves and their related entities, trusts and affiliates, including Boomtown Consulting, LLC, Eric Cline 2018 Family Trust, Eric Cline Irrevocable Management Trust, Shyla Cline 2018 Family Trust, Shyla Cline Revocable Trust, Eric Cline Revocable Trust, Cline Irrevocable Trust, and Shyla Cline Irrevocable Management Trust (collectively, "Bar Order Recipients").

WHEREAS, the Trustee has also pursued pre-suit discovery as to potential contractual, tort and Chapter 5 bankruptcy claims against the Clines and the other Bar Order Recipients. The pending disputes between the Parties largely remain as to the Clines potential tort liability with respect to the Trustee's claims and as to any personal financial liability to the Timeshare Exit Customers or the resort developers, which the Clines expressly deny. There also remains a dispute as to the scope and extent the Trustee may avoid transfers made to the Clines from the Debtors, and as to the Trustee's ability to pierce any of the Clines exempt property or assets titled in the name of family trusts. However, as part of confidential settlement communications, the Clines have been forthright about their exempt assets and non-exempt assets, expenditures, and holdings including those held by various family trusts.

WHEREAS, the Parties have been engaging in ongoing settlement discussions and discovery exchange, as well as discussing the various legal claims, theories and defenses. The Parties have engaged in multiple sessions of formal mediation with third-party neutral mediators

on May 8, 2019, August 12, 2019 and October 10, 2019, and many hours of negotiation and other informal discovery leading up to and after those mediation sessions to try and resolve the alleged and potential claims by the Trustee and other creditors against the Clines and the other Bar Order Recipients without further litigation with respect to these matters. The Parties participated in good faith, arm's length negotiations without collusion at the mediations with a neutral third party at each session, while each being represented by separate and independent counsel. As part of the mediation process, the Trustee discussed potential third parties being investigated or would be investigated, and that would require the assistance of the Clines, and the Clines also provided the Trustee additional deliverables as to their personal finances and their affiliated entities/trusts.

WHEREAS, after a thorough analysis by each Party of the probabilities of success on the Trustee's theories of recovery and the Clines defenses thereto, the Parties determined to reach a compromise relating to the matters in dispute. Litigation of the existing claims against the Clines and the putative claims asserted by the Trustee as described in this Settlement Agreement involve complex issues of fact and law, the outcome of which is uncertain. The Parties wish to avoid the risk, expense and delay associated with litigating the claims that could be asserted by and among the Parties.

WHEREAS, a material provision for the Clines in determining an appropriate settlement of this matter conditions the Parties' Agreement on a final, non-appealable order approving the settlement that includes the entry of a bar order enjoining any Claims (defined in paragraph 2b below) by any other potential third parties against the Clines and the Bar Order Recipients, as well as a mutual release of claims between the Parties as more particularly provided in paragraph 8 below in the "Terms of Agreement" section. Another material factor in determining an appropriate settlement of this matter to the Clines is the confidentiality of the mediation process and the underlying facts relating to the Clines and their affiliated entities as to their financial holdings, exempt assets and other assets owned by or for the benefit of the Clines' family members. This confidentiality is especially important as the Clines acknowledge the scope of the Bar Order does not include future misconduct or violations of this Agreement, including as to injunctive relief or damages sought against the Clines by Barred Persons (defined below) as to any such alleged future misconduct.

WHEREAS, nothing within this Settlement Agreement (including, without limitation, the payment of any settlement funds) shall constitute an admission by the Clines/Bar Order Recipients of any liability or wrongdoing alleged by the Trustee or any other creditors, which the Clines/Bar Order Recipients expressly deny. The Parties agree to the terms and conditions of this Agreement so as to fully and completely satisfy any and all claims among them in connection with the Chapter 11 cases, and the claims that were asserted or could have been asserted in the Chapter 11 cases, related adversary proceedings or in applicable non-bankruptcy court. The Parties wish to set forth the terms and conditions of their settlement in this Agreement.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby stipulate and agree as follows:

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

2. **Definitions.** For purposes of this Agreement:

a. **"Affiliated Entities"** means each of Boomtown Consulting, LLC, Eric Cline 2018 Family Trust, Eric Cline Irrevocable Management Trust, Shyla Cline 2018 Family Trust, Shyla Cline Revocable Trust, Eric Cline Revocable Trust, Cline Irrevocable Trust, and Shyla Cline Irrevocable Management Trust.

b. **"Claim"** means any and all known or unknown, suspected or unsuspected, anticipated or unanticipated, accrued or un-accrued, liquidated or unliquidated, past present, existing, actual, potential or future claims, cross-claims, counterclaims, third-party claims, demands, damages, interest, actions, liabilities, debts, liens, dues, sums of money, accounts, reckonings, bonds, bills, obligations, charges, covenants, contracts, controversies, agreements, promises, judgments, executions, obligations, causes of action, requests, allegations, suits, penalties, sanctions, right to indemnification, contribution, rights to attorneys' fees, right to costs, rights to expenses, rights to expert fees, rights to injunctive relief, or requests for relief of any kind, nature, or description whatsoever, in law or in equity, against the Clines and/or the Cline Released Parties (defined in paragraph 2c below), including, without limitation, (i) the putative claims for prosecution by the Trustee on behalf of the Debtors' estates described in this Agreement, (ii) the claims asserted or which could have been asserted in any proceeding in any court, and pending litigation, contested matters or other disputes in the Bankruptcy Court or in applicable non-bankruptcy litigation, and (iii) any and all claims of any kind and nature against the Bar Order Recipients and their predecessors, affiliates, successors, and related family members and entities in regard to transactions, acts, or events in any manner related to any of the Debtors, Timeshare Exit Customers, the timeshare exit industry, resort developers, employees of the Debtors, TFDB, FT, IPM, USCA, and all other creditors of the Debtors' bankruptcy estates.

c. the **"Cline Released Parties"** shall mean Eric and Shyla Cline, Boomtown Consulting, LLC, Eric Cline 2018 Family Trust, Eric Cline Irrevocable Management Trust, , Shyla Cline 2018 Family Trust, Shyla Cline Revocable Trust, Eric Cline Revocable Trust, Cline Irrevocable Trust, and Shyla Cline Irrevocable Management Trust, their parent companies, subsidiaries, affiliates, divisions or other organizational units of any kind doing business in their own names, and doing business under any other names, any entity now or in the past controlled by, controlling or under the common control with any of the foregoing and doing business under any other names, and each of their respective predecessors, successors and assigns, and each of their respective present and former officers, directors, managers, employees, owners, shareholders, equity holders, partners (limited and general), trusts, trustees, insurers, indemnitors, spouses, heirs, and beneficiaries, and each of their respective predecessors, successors and assigns, except as set

forth in the following sentence. TFDB, FT, IPM, USCA, BDO USA LLP, Scott Morse a/k/a Larry Scott Morse, Juliana Morse, Juliana Ladino Morse 2018 Family Trust, Larry Scott Morse 2018 Family Trust, Morse Family Holdings, and any of the Debtors' prepetition counsel and/or bankruptcy counsel, and any of the Debtors' insurance carriers as to potential bad faith insurance coverage denial claims are NOT included among the Cline Released Parties nor among the Bar Order Recipients.

d. "**Effective Date**" shall mean the date of the Final Settlement Order (defined in paragraph 3 below).

e. "**Estates**" means the bankruptcy estates of the Debtors.

f. The singular shall include the plural and vice versa.

3. Conditions Precedent. The Parties agree that the enforceability of this Agreement is subject to the Bankruptcy Court entering an order approving the settlement and bar order (the "Settlement Order") as set forth in this Agreement and such order becoming final (the "Final Settlement Order"). A Settlement Order becomes final when it (including without limitation, the Bar Order, defined in paragraph 3d below) is (i) not subject to any motion pursuant to Fed. R. Bankr. P. 9023; and (ii) no notice of appeal has been filed within the time period specified by Fed. R. Bankr. P. 8002; or (iii) if any appeals are filed in any court, they are dismissed or the Settlement Order and the Bar Order (defined in paragraph 3d below) have been affirmed and are no longer subject to further appellate review. In the event that the Bankruptcy Court approves this Agreement but a timely appeal is taken therefrom, there is no Final Settlement Order until the appeal has been resolved with finality and the Bankruptcy Court's approval has been affirmed by a final ruling of any reviewing court from which no further appeal is taken. In the Settlement Order, the Bankruptcy Court shall:

a. approve this Agreement;

b. approve the form and means of notice of the Parties' settlement and Bar Order (as defined below);

c. authorize the Parties to mutually release each other from the Claims being released under this Agreement, as set forth in Paragraph 8 of this Agreement below; and

d. bar the (i) Trustee, (ii) all creditors of the Estates, whether a proof of claim was filed in the Debtors' bankruptcy cases or not, (iii) all creditors of the Debtors, including those individuals and entities listed on the schedules filed in In re American Resource Management Group, LLC et al., (iv) all creditors of the Clines and/or the Affiliated Entities, and (v) each of their respective successors and assigns (collectively, the "Barred Persons") from prosecuting any Claims or lawsuit against the Clines and the Cline Released Parties (collectively, "Bar Order Recipients"), based upon, arising out of, under or in connection with, or in any way involving, directly or indirectly (i) the Debtors or their bankruptcy cases, (ii) the Clines or the Affiliated Entities, (iii) the timeshare exit industry, (iv) the Timeshare Exit Customers, (v) any creditor of the Debtors, the Principals or the Affiliated Entities, and (vi) any facts or circumstances at issue or

that could have been at issue in the Debtors' bankruptcy cases or any other pending litigation, including the District Court Actions - all except with respect to potential future alleged misconduct by the Clines and Affiliated Entities after the entry of the bar order or as otherwise stated in paragraph 5 of this Agreement below (the "Bar Order").

4. Settlement Amounts – The Clines agree as part of this Agreement to make certain cash payments to the bankruptcy estates, a lien on their homestead in favor of the bankruptcy, and turnover of additional financial disclosures, information and assets to the bankruptcy estates as follows:

a. **\$2.675 million Cash Payment** - \$2.675 million initial cash payment to be used by the estates to pay allowed administrative claims of the bankruptcy estates and customer claims (including those held by the merchant account credit card processors) to be paid by the Clines, their authorized representatives and/or Released Parties in cleared funds to Trustee ("Settlement Payment") no later than 10 calendar days after entry of a final, non-appealable order approving the Parties' settlement motion (the "Final Settlement Order").

b. **\$1.075 million on Clines Homestead** - No later than five calendar days after the entry of a Final Settlement Order, the Clines shall execute and deliver any and all additional documents that may be necessary to grant the Trustee a consensual lien against the Clines' homestead in the amount of \$1.075 million ("Homestead Lien"). The Clines shall have 6 months from the date of entry of a Final Settlement Order to reduce customer claims against the estates in consultation with, and with oversight from, the Trustee ("Claims Review Period"). Such oversight shall at all times be reasonable in the operation of the Trustee's business judgment. The Clines shall receive a dollar-for-dollar credit against the Homestead Lien for any reductions of filed customer claims that are agreed by the Trustee to have been procured by the Clines' efforts during the pendency of the 6 month period set forth above. For avoidance of doubt, the disallowance of duplicate customer claims shall not count toward this credit (i.e. disallowance of duplicate claims filed against multiple estates). To the extent the Clines do not reduce the customer claims by \$1.075 million, the Trustee shall be entitled to collect such amount ("Deficit") by foreclosing on the Homestead Lien to monetize the Deficit. By way of example, if the customer claims are reduced by \$475,000 due to the Clines efforts described in this paragraph, the Trustee shall be entitled to foreclose on the Homestead Lien to the extent of \$600,000. The Trustee agrees to forbear from foreclosing on the Homestead Lien to monetize the Deficit, for a period of up to 3 years from the expiration of the Claims Review Period to permit the Clines to pay the Deficit out of pocket, however only if the above-captioned bankruptcy cases are still being administered for other reasons. Otherwise, the payment obligation defaults to the later of: (i) 2 years after the expiration of the Claims Review Period, or (b) until the Trustee determines the cases need to be closed - not to exceed 3 years. The first year after the expiration of the Claims Review Period, the Deficit would not accrue interest, but for the additional years the remaining unpaid Deficit would accrue interest at the rate of 5%.

c. **Subject to Further Financial Disclosures, Including Personal Property.** The settlement is subject to sworn additional financial disclosures by the Clines to the Trustee including, but not limited to, personal property owned by Clines or held/stored by other parties for the benefit of the Clines, the closing statement from sale of their prior homestead, and the closing statement on purchase of new homestead and in the event such closing statement is not available

at the time of the settlement, the Clines shall produce all legal documentation relating to such anticipated acquisition and cooperate with the Trustee to enable the estates' Homestead Lien to be placed in first position on the homestead. The Clines agree Trustee would be entitled to reasonable onsite inspections, including of personal property items, at mutually convenient times and places. At Trustee's option and in consultation with the Clines, the Trustee could sell/monetize Clines personal property items with some net equity value up to an additional \$100,000 in the aggregate on a net basis - meaning net to the estate after payment of any liens, encumbrances, broker commissions, etc. on the personal property to be sold. This personal property sale component is subject to consultation between the Parties as to reasonable assertions of sentimental value and/or personal, necessary use such as home furnishings, personal family vehicles of Eric and Shyla Cline as well as the vehicle driven by the Clines daughter, consistent with previous disclosure of make, year and model of such vehicles. In addition, the Clines or individuals/entities on their behalf may purchase's the estates' interest in any such assets under this provision. Any remaining dispute about the personal property liquidation or inspections shall be within the exclusive jurisdiction of the Bankruptcy Court presiding over these Chapter 11 cases.

d. Turnover of Range Rover - the Clines' Range Rover shall be turned over and/or subject to Court-approved sale for the benefit of the estates, in which the Range Rover either would be sold for more than the existing debt on the Range Rover or, in the event it cannot be sold for more than the debt and release of obligations from the applicable Range Rover dealership, then the Trustee and Clines would coordinate next steps with respect to the Ranger Rover including potential return of the vehicle on a negotiated basis to the lender. Pending sale or further disposition, the Parties agree that, no later than upon entry of a Final Settlement Order, the Range Rover would be retrieved by the Trustee and stored at his direction and expense with all keys and all appropriate paperwork turned over and transferred to the Trustee and that upon turnover of the Range Rover the Estate shall immediately commence responsibility for all payments, maintenance and upkeep and legal operation of the vehicle.

e. Jewelry Paid for by Debtors – The Clines will provide all names, contact information and other requested information to Trustee as to any recipients of jewelry that the Trustee has identified as being paid by the Debtors or the estates.

5. Consensual Injunctive Relief. The Clines agree to an industry-wide injunction, which would include the Clines' agreement to forbear from ever working in the timeshare exit industry again, nor will the Clines receive any remuneration directly or indirectly from any referrals within the timeshare exit industry. Such injunction shall be in the same form and language as, or otherwise not inconsistent with, any such injunction agreed to by the Clines in the context of the pending District Court Actions in the event of a settlement there between the Clines and the Developers therein in advance of submission and approval of this settlement. The intent of the injunction is for the Clines to agree not to work in the timeshare exit industry. Any final, non-appealable bar order entered by the Bankruptcy Court in favor of the Bar Order Recipients, which is contemplated to include the pending District Court Actions and any other creditor with personal claims against the Bar Order Recipients would specifically NOT preclude any suit or other action by ANY party from seeking injunctive relief and damages against the Clines or any of the Bar Order Recipients for any conduct within the timeshare exit industry affecting applicable parties that post-dates the entry of a court-approved bar order.

6. Cooperation with Trustee's Case Administration: Third Party Claims and Corporate Tax Returns - The Clines shall fully cooperate with the Trustee's examination and pursuit of third party claims as set forth in this Settlement Agreement, including but not limited to this numbered paragraph 6 of this Settlement Agreement, upon the entry of a Final Settlement Order. This includes informal interviews, consultation, formal depositions, and testimony at trial in which the Clines shall provide complete and accurate information to the Trustee and provide documents requested in Clines' custody, possession or control. The Clines shall fully cooperate with the Trustee's efforts to pursue claims against third parties and other assets of the estates held by third parties. The Clines agree to the turnover of information in possession of the Clines to the Trustee with any copies still in possession, custody or control of the Clines to be destroyed regarding the operation of the Debtors' business.

By May 1, 2020, the Clines shall provide all financial and tax information requested by the Trustee in their custody, possession or control, including, but not limited to, all Debtors' transactional activity in 2019, in a complete format necessary and suitable to enable the Trustee to timely file tax returns for the Debtors for the tax year ended 2019. The Clines will also timely provide additional data to the Trustee within a 48-hour response time in the event the Trustee or his professionals have questions regarding the responsive information provided or otherwise relative to the Trustee's preparation of the Debtors' 2019 corporate tax returns.

In exchange for the provisions in this Settlement Agreement including, but not limited to, the provisions of numbered paragraphs 4, 5, and 6, and as set forth below in paragraph 7 in more detail, the Parties each agree to mutual releases by and between the (i) Trustee/Bankruptcy Estates, and (ii) the Clines and the Bar Order Recipients, except for the obligations set forth in, and/or as otherwise stated in, the Settlement Agreement.

In all, upon entry of a Final Settlement Order, the Clines are hereby deemed as set forth above to have fully assigned all rights, title and interest to the Trustee for the benefit of the bankruptcy estates any and all claims against prepetition professionals, and other potential third-party claims the Cline's may possess in whole or in part as to other claims or assets having to do with the Cline's role, ownership, position, title or otherwise bearing any relation to the Debtors, or the Clines disposition of their assets from distributions or assets the Clines received from the Debtors, or other claims relating to assets of the Debtors.

7. Mutual Releases and Bar Order - Upon entry of a Final Settlement Order, the Clines are deemed to have waived any and all claims against the Trustee, Trustee's counsel and professionals, and the bankruptcy estates, for any and all actual, putative or potential prepetition and post-petition claims, and the Clines shall cause their affiliated entities to file terminations of any filed UCC-1 liens against the Debtors within 5 calendar days after the entry of a Final Settlement Order. Upon entry of a Final Settlement Order and the payment in cleared funds of all amounts due to the bankruptcy estates under the Final Settlement Order, then the Trustee will be deemed to have released any and all Claims against the Clines, their Affiliated Entities and the Cline's counsel, Genovese, Joblove and Battista, P.A., that were brought or could have been brought for matters existing from the beginning of time through the date of the Settlement Agreement, except for the Cline's continuing obligations set forth in the Settlement Agreement.

In addition, the settlement is conditioned on the Bankruptcy Court's entry of a bar order against all potential and existing claimants and litigants against the Clines and the Bar Order Recipients barring all claims to the fullest extent allowed under the law of the Eleventh Circuit, including all claims arising from the Cline's actions, connection or relationships to and with any of the Debtor entities or creditors of the Debtor entities. Upon its entry, the Clines shall bear sole responsibility for enforcing the bar order with respect to barred claims.

However, neither the releases provided by the Trustee to the Clines and the Bar Order Recipients nor the bar order entered by the Court will bar claims brought for any alleged post-bar order misconduct or omissions, including, but not limited to, breach of the injunction, compliance with others terms and obligations set forth in the Settlement Agreement, and also as to the Trustee's pursuit of turnover and administration of any of the Clines assets not disclosed to the Trustee as of the entry of the Final Settlement Order, including items that are otherwise transferred to other third parties, with a minimum aggregate threshold amount of \$100,000 for the pursuit of undisclosed assets. This is not a cap on the Trustee's pursuit of such undisclosed assets; rather, it is the minimum aggregate threshold before the Trustee is able to pursue recovery of undisclosed assets in an otherwise uncapped amount in whatever amount as may be realized by the liquidation of such undisclosed assets.

8. Costs, Expenses and Attorneys' Fees. Each Party shall bear its own costs, expenses and attorneys' fees arising out of, or connected with, or related to its respective prosecution or defense of the claims through the date of this Settlement Agreement, as well as those costs, expenses and attorneys' fees incurred in connection with drafting, finalizing and obtaining Bankruptcy Court approval of this Settlement Agreement. However, in the event that it is necessary for any Party to undertake any action to enforce the terms of this Settlement Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in enforcing such rights under this Settlement Agreement from any non-prevailing party in that action.

9. Trustee's Unexpired Statute of Limitations Period, as well as deadlines in District Court Actions Tolloed Pending Settlement Approval Process. Any statute of limitations period for the Trustee on behalf of the bankruptcy estates to bring Claims against the Clines and Bar Order Recipients that have not expired as of the date of this Settlement Agreement shall be deemed tolled until and through fourteen (14) days after the entry of a final, non-appealable order adjudicating the Settlement Agreement. In addition, within seven (7) days after the Settlement Agreement is signed by the Parties, the Clines shall file a motion in the Developers' applicable District Court Actions, to the extent the same have not already been resolved by the Clines and the Developers in their separate negotiations, and in the merchant account credit card processor's state court lawsuit, and with the Trustee's assistance, use best efforts to obtain, an extension or stay of all deadlines and discovery in the District Court Action and in the state court action relating to the Clines and any non-party discovery issued on the Trustee, through the date of entry of a Final Settlement Order.

10. Neutral Interpretation/Choice of Law/Jurisdiction. All Parties shall be considered collectively to be the drafter of this Settlement Agreement and any rule of construction to the effect

that ambiguities are to be resolved against the drafter shall be inapplicable. This Settlement Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida, without regard to conflict of law principles. The Bankruptcy Court shall retain exclusive jurisdiction over the Parties, subject matter, interpretation, effectuation, and enforcement of the terms of this Settlement Agreement.

11. Waiver, Modification & Amendment of Terms and Conditions. No waiver, modification or amendment of the terms and conditions of this Settlement Agreement shall be valid and binding unless made in writing, signed by the Party to be charged and then only to the extent as set forth in such written waiver, modification or amendment. To the extent they are not otherwise required by law, any or all of the terms and conditions for making this Settlement Agreement effective may be waived by written agreement of the Parties. However, the agreement to waive any term or condition in any particular instance shall not be construed as an agreement to waive any other term or condition or to waive a condition in any other instance.

12. Bankruptcy Court Approval. Within seven (7) days after the Settlement Agreement is signed by the all of the Parties, the Trustee shall file a motion in the Bankruptcy Court for the entry of an order approving the Agreement. The Parties' counsel shall use their best efforts to cause the Bankruptcy Court to approve the Settlement Agreement and to effectuate the terms and conditions of the Settlement Agreement. None of the Parties shall take any action to frustrate the purpose of this Settlement Agreement or court approval of the Settlement Agreement. However, the Clines and the Affiliated Entities or other Bar Order Recipients shall bear the sole responsibility for enforcing the Bar Order. As agreed between the Parties for service and due process purposes, through Stretto as the court-approved noticing agent, the Trustee shall serve notice of the Settlement Agreement, the motion to approve the Agreement and any order approving the Agreement on all persons and entities entitled to notice under the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, including, but not limited to, at least the persons and entities listed in the Debtors' bankruptcy schedules or filed a proof of claim.

13. Notices. All funds to be transmitted, notices to be sent, and information to be provided under this Agreement shall be sent to the following addresses:

a. For the Trustee:

Coral Lopez-Castro, Esq.
David A. Samole, Esq.
Kozyak Tropin & Throckmorton, LLP
2525 Ponce de Leon, 9th Floor
Miami, FL 33134
Tel: (305) 372-1800
Fax: (305) 372-3508
Email: clc@kttl.com
das@kttl.com

b. For the Clines/Bar Order Recipients:

Allison Day, Esq.
Theresa Van Vliet, Esq.
Genovese Joblove & Battista, P.A.
100 SE 2nd Street, Suite 4400
Miami, FL 33131
Tel: (305) 349-2300
Fax: (305) 428-8805
Email: tvavliet@gjb-law.com
aday@gjb-law.com

14. Counter-Parts. This Settlement Agreement may be executed in counterparts, with each electronically transmitted copy of an executed counterpart taken as a whole constituting the original.

15. Acknowledgement. This Settlement Agreement was executed after good faith arm's-length negotiations between the Parties and their respective counsel, and reflects the conclusion of the Parties that this Settlement Agreement provides a fair and reasonable resolution of the Claims released as set forth in Paragraph 7 above in the "Terms of Agreement."

16. Authority. Each Party warrants and represents that the person signing this Settlement Agreement is duly authorized to enter into this Settlement Agreement on behalf of such Party.

17. Assignability/Binding Effect. This Settlement Agreement may not be assigned by any Party to any other third person or third-party entity without the prior written agreement of each of the other Parties. Notwithstanding the foregoing, this Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and legal assigns, including but not limited to any Post-Confirmation Trustee, Chapter 11 Plan Administrator, and/or Chapter 7 Trustee of the Bankruptcy Estates in these Chapter 11 cases, or any subsequent receiver, trustee or assignee of any of the Bar Order Recipients in any subsequent proceedings.

18. Entire Agreement. This Settlement Agreement constitutes the entire agreement of the Parties as to the subject matter addressed herein. The undersigned acknowledge that there are no communications or oral understandings contrary, different, or that in any way restrict this Settlement Agreement, and that all prior agreements or understandings within the scope of the subject matter of this Settlement Agreement are, upon the execution and delivery of this Settlement Agreement, superseded, null, and void.

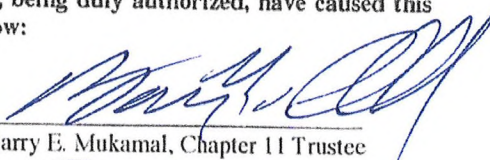
19. Legal Representation. This Settlement Agreement has been fully negotiated and reviewed by the Parties and their respective counsel, and, accordingly, cannot be more strictly construed against one Party than another.

20. No Admission of Liability. The entry into this Settlement Agreement and the various documents and discussions in connection with its negotiation and execution shall not constitute an admission by any of the Parties of liability to anyone for any purpose.


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

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below:

DATE: 3/12/20


Barry E. Mukamal, Chapter 11 Trustee

DATE: 3/9/2020


Eric Cline individually and on behalf of all applicable Bar Order Recipients

DATE: 3/9/2020

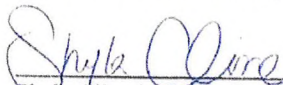

Shyla Cline individually and on behalf of all applicable Bar Order Recipients

Exhibit B

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**
www.flsb.uscourts.gov

In re:

Case No.: 19-14605-BKC-PGH

**AMERICAN RESOURCE MANAGEMENT
GROUP, LLC (DE), *et al.*,**
EIN: 35-2620369

**Chapter 11
Jointly Administered¹**

Debtors.

**ORDER GRANTING TRUSTEE'S AMENDED MOTION TO APPROVE
SETTLEMENT WITH ERIC & SHYLA CLINE, WITH BAR ORDER (ECF No. XXX)**

¹ Additional Jointly Administered Chapter 11 Cases: (a) American Resource Management Group, LLC (IL), EIN: 45-4466948 (Case No. 19-14606); (b) ARMG Holdings, LLC (FL) f/k/a American Resource Management Group, LLC (FL), EIN: 46-4051532 (Case No. 19-14607); (c) Boomtown Holding Group, LLC (DE), EIN: 82-4694300 (Case No. 19-14608); (d) Redemption and Release, LLC (DE), EIN: 30-1041362 (Case No. 19-14609); (e) Redemption Holdings USA, LLC f/k/a Redemption and Release, LLC (FL), EIN: 45-3992101 (Case No. 19-14610); (f) Resort Exit Team LLC (FL), EIN: 83-4337729 (Case No. 19-14611); (g) Vacation Properties for Less, LLC (DE), EIN: 36-4894455 (Case No. 19-14612); and VPL Holdings, LLC (FL) f/k/a Vacation Properties for Less, LLC (FL), EIN: 82-1608783 (Case No. 19-14613).

On March 20, 2020, Barry E. Mukamal, the duly appointed Chapter 11 trustee (the “Trustee” or “Movant”) in these jointly administered cases, filed an amended motion (“Motion”) (ECF No. XXX), pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 9019 and corresponding Local Rules, for entry of an order approving the Settlement Agreement,² including a Bar Order, between the Trustee on the one hand, and Eric and Shyla Cline (together, the “Clines”) on the other hand (collectively, the Trustee and the Clines shall be referred to as the “Parties,” and each individually, a “Party”), and issuing a bar order in favor of the Clines and the Bar Order Recipients (which include specifically only the Clines, as well as Boomtown Consulting, LLC, Eric Cline 2018 Family Trust, Eric Cline Irrevocable Management Trust, Shyla Cline 2018 Family Trust, Shyla Cline Revocable Trust, Eric Cline Revocable Trust, Cline Irrevocable Trust, and Shyla Cline Irrevocable Management Trust).

The Movant, by submitting this form of order, has represented that the Motion was served on all parties required by Bankruptcy Rule 2002 or Local Rule 2002-1(H), (I) or (J), that the 21-day response time provided by Local Rule 9013-1(D) has expired (as well as the 30-day response time given to customers with the summary form notice), and that no one has filed, or served on the Movant, a response to the Motion that remains unresolved as of the date of this Order, and that the form of order was attached as an exhibit to the Motion.

To approve the Settlement Agreement, this Court must determine whether the settlement is fair and equitable by considering:

- (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 Justice Oaks, II, Ltd., 898 F.2d 1544, 1549 (11th Cir.), cert. denied, 498 U.S. 959 (1990).

² Capitalized terms not defined herein shall have the definitions provided for in the Motion.

As the proposed Settlement Agreement also includes the Bar Order, this Court must further determine whether the entry of the proposed Bar Order is appropriate. In order to approve the proposed Bar Order, the Court must first determine whether the Bar Order was integral to the Settlement Agreement and then determine whether the Bar Order is fair and equitable. *Munford v. Munford, Inc. (In re Munford)*, 97 F.3d 449 (11th Cir. 1996). “In making such a determination, courts consider the interrelatedness of the claims that the bar order precludes, the likelihood of non-settling defendants to prevail on the barred claim, the complexity of the litigation, and the likelihood of depletion of the resources of the settling defendants.” *Id.* at 455. In addition, the Eleventh Circuit Court of Appeals requires this Court to consider other factors evaluating the propriety of a nonconsensual release of claims against a non-debtor third party, some of which are paraphrased and tailored to these cases as follows: (1) an identity of interests between the debtors and the third party, such that a suit against the non-debtor is, in essence, a suit against the debtors or will deplete the assets of the estates; (2) the non-debtor beneficiary of the bar order has contributed substantial assets to these cases; (3) the injunction is essential to the settlement which would help fund an applicable Chapter 11 Plan going forward, (4) overwhelming acceptance of the settlement by the impacted class or classes, or opportunity to recover; (5) provision in a Chapter 11 Plan for payment of all or substantially all of the claims of the class or classes affected by the injunction; (6) provision in a Chapter 11 Plan for an opportunity for claimants who chose not to settle to recover in full; and (7) a record of specific factual findings by the bankruptcy court that supports its conclusions. *SE Prop. Holdings, LLC v. Seaside Eng’g & Surveying, Inc. (In re Seaside Eng’g & Surveying, Inc.)*, 780 F.3d 1070, 1079 (11th Cir. 2015). The Eleventh Circuit advises that bankruptcy courts have discretion to determine which of these factors will be relevant in each case, including here where this settlement and bar order are occurring in a pre-Plan context. *Id.*

The Court has carefully considered (a) the Motion, (b) the proposed Settlement Agreement and Bar Order, (c) the record in these cases and related proceedings, and (d) relevant authorities, and hence finds as follows:

A. The Court has been apprised of the steps taken to identify and give notice of the Motion and the proposed Settlement Agreement and entry of this Bar Order to creditors of the Debtors and the Estates and all persons whose interests could be affected by the Settlement Agreement and the Bar Order. The Court finds that the form and means of notice of the Motion and the proposed Settlement Agreement and Bar Order, including the deadline to object to the Settlement Agreement as well as the extended deadline to object provided in the summary form notice (ECF Nos. XXX and XXX), was the best notice practicable under the circumstances, and constitutes good and sufficient notice to all persons and entities affected or that could be affected by the Settlement Agreement and the Bar Order.

B. Based on the express provisions in the Settlement Agreement and the Motion (as well as in the summary form notice) which form part of the record on these cases, the Court has been apprised of the negotiations that preceded the Settlement Agreement, and finds that the Settlement Agreement with Bar Order is the result of extensive, arms-length bargaining among the Parties and represents a good faith compromise and resolution of the matters settled. The Court finds that the Settlement Agreement is not the product of any collusion among the Parties and was not negotiated with any intent to prejudice persons or entities subject to the Settlement Agreement and the Bar Order.

C. The Settlement Agreement and Motion have familiarized the Court with the claims and defenses asserted or that could have been asserted in this Court or otherwise which have been settled pursuant to the Settlement Agreement, and the Court finds that the Settlement Agreement with Bar Order represents a fair, reasonable and adequate resolution of the claims and defenses of

the parties. Based on the legal and factual bases set forth in the Motion, and otherwise based on the totality of the record, the Court finds that the Settlement Agreement with Bar Order, including, but not limited to, the release and Bar Order provisions therein as set forth in this Order, meets the Eleventh Circuit's standards governing settlements and bar orders as set forth herein, as it is a proper use of the Trustee's business judgment, is fair and equitable with respect to the creditors of the Estates and all others subject to the Settlement Agreement and the Bar Order, and is in the best interest of the Estates.

D. The Settlement Agreement and Motion adequately describe the universe of disputes pending in, or that could have been raised as part of, these bankruptcy cases or otherwise between the Parties, and sets forth the Trustee's uncertain likelihood of success on the merits, defenses and damage claims in all such matters as they relate to the scope and extent of recover in these matters.

E. The Settlement Agreement and Motion acknowledge that difficulty of collection is a relative concern in these cases, based on the Trustee's review of the Clines' finances that the Clines do not appear to have enough available money on hand to fund a judgment meaningfully larger than the proposed settlement.

F. The Settlement Agreement and Motion describe the legal and factual issues of substantial complexity that, if litigated, would impose extensive litigation costs upon the bankruptcy estates and would delay administration of the cases.

G. The Settlement Agreement and Motion describe the totality of the circumstances reflecting that the Settlement Agreement is in the best interest of the Estates as it provides for the Estates to receive a significant settlement amount to help fund a meaningful creditor distribution.

H. The Court finds that based on the express provisions in the Settlement Agreement and the Motion, entry of the Bar Order is a mandatory, integral condition of the Settlement Agreement, and that, without the Bar Order, the Settlement Agreement will not be consummated.

I. The express provisions in the Settlement Agreement and the Motion confirm that the Clines and Bar Order Recipients under the Bar Order have an identity of interests with the Debtors with respect to claims brought against them as all actions that remain pending or were only recently resolved against the Clines and/or Bar Order Recipients were brought by creditors who filed claims against these Estates and whose claims against the Bar Order Recipients were either those that arose contractually or otherwise set forth allegations stemming from the Clines' operation of the Debtors, with the same universe of claims and defenses as the Trustee pursued against the Clines and/or Bar Order Recipients as to their roles in such claims, and is being resolved in this proposed settlement. That is, the Barred Claims as defined in the Settlement Agreement and in this Order are interrelated to the claims and defenses being resolved in this Settlement Agreement as they arise out of the same facts and circumstances as those proofs of claim filed in this Court and other pending litigation in other judicial forums.

J. The express provisions in the Settlement Agreement and the Motion describe the uncertain likelihood of persons to prevail on Barred Claims against Bar Order Recipients (as these terms are defined in this Order) as well as the complexity of litigation of such Barred Claims, as the claims and defenses of the Barred Claims are interrelated to the Trustee's claims that, as described above, carry with it an uncertain likelihood of success on the merits as to scope and extent of such recovery against the Bar Order Recipients.

K. The express provisions in the Settlement Agreement and the Motion confirm that the Estates' assets are not being depleted by the Settlement Agreement. Rather, the settlement will augment the Estates' assets, both by increasing the funds available for creditor distribution and by avoiding litigation expenses. The continued litigation against the Clines in separate multiple fora by multiple parties all addressing allegations of obligations owed by the Clines arising from their conduct as control and/or guarantor persons of the Debtors would severely impact the amount of

funds and assets that would be available for recovery by the Estates against the Clines after judgment or at a subsequent settlement at a later time.

L. The Court finds that based on the express provisions in the Settlement Agreement and the Motion, as well as the totality of the record before it, that the scope of the Bar Order is fair and reasonable in light of the litigation issues that exist or could exist between the parties in connection with the disputes regarding the Bar Order Recipients.

M. The Court further finds and accepts the representation in the Settlement Agreement and the Motion that the Clines' intent in entering the Settlement Agreement was and is to address any and all Claims against them and the Bar Order Recipients arising out of these bankruptcy cases, and their role and participation in the Debtors, or other related guarantee obligations therein, and any other individual liability that could be alleged against them arising out of their dealings as some of the control persons and owners of the Debtors, from the settlement funds they are providing to the Trustee, and that the Bar Order Recipients are waiving any and all claims against the Estates, and abiding by industry-wide injunctions entered against them in other recent litigation, and will also actively assist the Trustee with the ongoing administration of the Estates and third party claims, and is doing so in excess of what they otherwise would have done in the interest of obtaining such global relief.

N. The Court finds that the Bar Order is necessary and appropriate in order to achieve the finality and repose contemplated by the Settlement Agreement, and that its entry is an appropriate exercise of the Court's sound discretion to facilitate settlements and promote the consensual resolution of disputes.

O. For these reasons, the Court finds good cause to grant the relief requested and finds that the entry of this Order and Bar Order is fair and equitable. As such, it is –

ORDERED as follows:

1. The Court has jurisdiction over this matter pursuant 28 U.S.C. § 1334 and authority to enter an order approving the Settlement Agreement pursuant to 11 U.S.C. § 105(a) and Federal Rule of Bankruptcy Procedure 9019.

2. The Motion is granted. The Settlement Agreement with Bar Order is approved in all respects. All objections and responses to, and statements and comments regarding, the Settlement Agreement with Bar Order, to the extent they have not been withdrawn prior to entry of this Order or are not cured by the relief granted herein, are hereby expressly overruled. The Parties are directed to take any and all action and execute any and all documents necessary to effectuate the terms of the Settlement Agreement.

3. The Trustee and Parties are authorized and directed to take all actions in accordance, or otherwise consistent with, the terms of the Settlement Agreement and this Order, which includes, but is not limited to, the timely payment of \$2.675 million to the Estates, the consensual timely imposition of a first position secured lien on the Clines' homestead property in the amount of \$1.075 million, and the other cooperation terms and obligations by and between the Parties under the Settlement Agreement.

4. The following definitions apply to the provisions of this Bar Order barring certain claims, as set forth below:

(a) **“Barred Persons”** shall mean the (i) Trustee (except with respect to obligations set forth in the Settlement Agreement), (ii) all creditors of the Estates, whether a proof of claim was filed in the Debtors' bankruptcy cases or not, (iii) all creditors of the Debtors, including those individuals and entities listed on the schedules filed in In re American Resource Management Group, LLC et al., (iv) all creditors of the Clines and/or the Bar Order Recipients, and (v) each of their respective successors and assigns (collectively, the "Barred Persons") from prosecuting any Claims or lawsuit against: (a) the Clines, (b) Boomtown Consulting, LLC, (c) Eric Cline 2018

Family Trust, (d) Eric Cline Irrevocable Management Trust, (e) Shyla Cline 2018 Family Trust, (f) Shyla Cline Revocable Trust, (g) Eric Cline Revocable Trust, (h) Cline Irrevocable Trust, and (i) Shyla Cline Irrevocable Management Trust (collectively, "Bar Order Recipients") based upon, arising out of, under or in connection with, or in any way involving, directly or indirectly (i) the Debtors or their bankruptcy cases, (ii) the Clines or the Bar Order Recipients, (iii) the timeshare exit industry, (iv) the Timeshare Exit Customers, (v) any creditor of the Debtors, the Principals or their affiliated entities, and (vi) any facts or circumstances at issue or that could have been at issue in the Debtors' bankruptcy cases or any other pending litigation - all except with respect to potential future alleged misconduct by the Clines and/or the other Bar Order Recipients after the entry of the Bar Order or as otherwise stated in this Order.

(b) "Claim" means any and all known or unknown, suspected or unsuspected, anticipated or unanticipated, accrued or un-acrued, liquidated or unliquidated, past present, existing, actual, potential or future claims, cross-claims, counterclaims, third-party claims, demands, damages, interest, actions, liabilities, debts, liens, dues, sums of money, accounts, reckonings, bonds, bills, obligations, charges, covenants, contracts, controversies, agreements, promises, judgments, executions, obligations, causes of action, requests, allegations, suits, penalties, sanctions, right to indemnification, contribution, rights to attorneys' fees, right to costs, rights to expenses, rights to expert fees, rights to injunctive relief, or requests for relief of any kind, nature, or description whatsoever, in law or in equity, against the Clines and/or the other Bar Order Recipients, including, without limitation, (i) the putative claims for prosecution by the Trustee on behalf of the Debtors' estates described in the Settlement Agreement, (ii) the claims asserted or which could have been asserted in any proceeding in any court, and pending litigation, contested matters or other disputes in the Bankruptcy Court or in applicable non-bankruptcy litigation, and (iii) any and all claims of any kind and nature against the Bar Order Recipients in regard to

transactions, acts, or events in any manner related to any of the Debtors, Timeshare Exit Customers, the timeshare exit industry, resort developers, merchant account creditor card processors of the Debtors, employees of the Debtors, TFDB, FT, 1PM, USCA, and all other creditors of the Debtors' bankruptcy estates.

(c) "**Bar Order Recipients**" shall include for purposes and enforcement of this Order and the Settlement Agreement (which terms of this Order shall control any inconsistency) each and all of the (i) Eric and Shyla Cline, as well as (ii) Boomtown Consulting, LLC, (iii) Eric Cline 2018 Family Trust, (iv) Eric Cline Irrevocable Management Trust, (v) Shyla Cline 2018 Family Trust, (vi) Shyla Cline Revocable Trust, (vii) Eric Cline Revocable Trust, (viii) Cline Irrevocable Trust, and (ix) Shyla Cline Irrevocable Management Trust.

5. The Barred Persons and any persons or entities who are not signatories to the Settlement Agreement, and who appear on the schedules filed in the Debtors' bankruptcy cases or who were sent, or who received, notice of the Debtors' bankruptcy cases and this Settlement Agreement and Bar Order (or a summary notice as approved by the Court), are hereby permanently barred and enjoined from initiating or pursuing in any court or forum whatsoever, the Claims or claims of any kind against the Clines and/or the other Bar Order Recipients, based upon, arising out of, under or in connection with, or in any way involving, directly or indirectly based upon, arising out of, under or in connection with, or in any way involving, directly or indirectly (i) the Debtors or their bankruptcy cases, (ii) the Clines or the Bar Order Recipients, (iii) the timeshare exit industry, (iv) the Timeshare Exit Customers, (v) any creditor of the Debtors, the Principals or their affiliated entities, and (vi) any facts or circumstances at issue or that could have been at issue in the Debtors' bankruptcy cases or any other pending litigation - all except with respect to potential future alleged misconduct by the Clines and/or the other Bar Order Recipients after the entry of the Bar Order or as otherwise stated in this Order. Nothing in this Bar Order bars the U.S.

Securities and Exchange Commission, the Internal Revenue Service or any other governmental agency from asserting any claim, or taking any action, against the Clines and/or the other Bar Order Recipients in any forum. Additionally, nothing in this Bar Order shall bar the Trustee from asserting any claim against the Clines and/or the other Bar Order Recipients as to their obligations set forth in the Settlement Agreement.

6. The Court retains jurisdiction over the parties to enforce or interpret the Settlement Agreement.

7. The Clines shall bear sole responsibility for enforcing the Bar Order.

8. This Order shall be effective immediately upon entry and any stay of the effectiveness provided for by the Bankruptcy Code or the Bankruptcy Rules is hereby abrogated.

###

Submitted by:

David A. Samole, Esq.
Kozyak Tropin & Throckmorton, LLP
2525 Ponce De Leon, 9th Floor
Miami, Florida 33134
Telephone: 305-372-1800/
Facsimile: 305-372-3508
E-mail: das@kttlaw.com
Attorneys for Chapter 11 Trustee

Attorney David A. Samole is directed to serve copies of this order on all interested parties and to file a certificate of service.