

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DIRECT LENDING INVESTMENTS
LLC,

Defendant.

Case No.: 2:19-cv-02188-DSF-MRW

NOTICE OF SETTLEMENT

1 **NOTICE OF SETTLEMENT**

2 PLEASE TAKE NOTICE THAT that a proposed settlement has been
3 reached in an agreement (the “Settlement Agreement”) among and between, on
4 the one hand, (a) Bradley D. Sharp, in his capacity as the Court-appointed
5 Receiver (the “Receiver”) for the estate of Direct Lending Investments, LLC,
6 Direct Lending Income Fund, L.P., Direct Lending Income Feeder Fund, Ltd.,
7 DLI Capital, Inc., DLI Lending Agent, LLC, DLI Assets Bravo LLC (in
8 Receivership) (collectively, the “Receivership Entities”); (b) Bradley D. Sharp
9 and Christopher D. Johnson, in their capacities as Joint Official Liquidators
10 (“JOLs”) of Direct Lending Income Feeder Fund, Ltd. (in official liquidation)
11 (“DLIFF,” and together with the Receivership Entities, the “DLI Entities”);
12 (c) investors in the DLI Entities (“Investors”) that participated in the mediation
13 and identified in Exhibit A to the Settlement Agreement (“Party Investors”)
14 (specifically, those Investors represented by Levine Kellogg Lehman Schneider
15 + Grossman LLP, The Meade Firm P.C., and Reiser Law P.C.; those Investors
16 represented by Nystrom Beckman & Paris LLP; those Investors represented by
17 Bragar Eigel & Squire, P.C.; and Michael Mendle, Whitney Whitacre, and the
18 Investors that are named plaintiffs in the action represented by Ahdoot and
19 Wolfson PC and Milberg Coleman Bryson Phillips Grossman LLC); and, on the
20 other hand, (d) certain directors and officers identified in the Settlement
21 Agreement (the “D&Os”). The Receiver, JOLs, the DLI Entities, the Party
22 Investors, and the D&Os are referred to as the “**Parties.**”

23 Under the terms of the Settlement Agreement, Endurance Risk Solutions
24 Assurance Co., Allianz Global Risk US Insurance Company, Arch Insurance
25 Company, Argonaut Insurance Company, and Markel American Insurance
26 Company (collectively, the “D&O Policy Insurers”) agree to pay, on behalf of
27 the D&Os, from the proceeds of applicable insurance policies, the total sum of
28

1 eight million U.S. dollars (\$18,000,000) (the “Settlement Amount”) to be
2 deposited into escrow account(s) for DLIF Investors, for DLIFF, for Party
3 Investors, for reserves (the “Reserves”) of \$1,200,000 for the sole benefit of the
4 Ross Parties¹ and \$500,000 for sole the benefit of the D&Os other than Ross, and
5 for payment of Court approved attorneys’ fees. The Parties have agreed that the
6 Settlement Amount shall be allocated as follows: (a) attorneys’ fees of up to
7 \$5,400,000 shall be paid to the seven law firms handling the matter; (b) the
8 Reserves of \$1,700,000 shall be paid for the benefit of the D&Os legal costs with
9 any unused balance being paid to the DLIF Investors, to DLIFF, and to Party
10 Investors; (c) \$2,000,000 shall be paid to the Receivership Estate to be distributed
11 to the DLIF Investors and to DLIFF pursuant to the Claims Stipulation (the “\$2
12 Million Payment”); (d) \$8.9 million (“Net Settlement Amount”) will be disbursed
13 to DLIF Investors, will be disbursed to DLIFF and distributed to DLIFF Investors
14 and creditors by the JOLs pursuant to Cayman Islands law, and will be disbursed
15 to the Party Investors.

16 Concurrent with this Notice, Investors are being served with Notices of the
17 Settlement and the Right of Exclusion from the Settlement (or “Opt-out Notices”)
18 describing the steps that Investors must take to exclude themselves from the
19 Settlement. Please read the entire Opt-out Notice carefully. As described in more
20 detail in the Opt-out Notice to DLIF Investors, a portion of the Net Settlement
21 Amount and the \$2 Million Payment will be distributed on a pro rata basis to
22 persons or entities that invested, through the purchase of limited partnership
23 interests or otherwise, in DLIF (“DLIF Investors”) that do not exclude themselves
24 from the Settlement (“Participating DLIF Investors”) pursuant to the procedures
25 described therein. As described in more detail in the Opt-out Notice to DLIFF
26 Investors, a separate portion of the Net Settlement Amount and the \$2 Million

27
28 ¹ “Ross Parties” means Ross, Jill Jasen f/k/a Jill Ross, S.R.1 and S.R.2.

1 Payment will be distributed to DLIFF to be distributed by the JOLs in accordance
2 with Cayman Islands law to creditors and persons or entities that invested,
3 through the purchase of shares, in DLIFF (the “DLIFF Investors”)² pursuant to
4 the procedures described therein. The Settlement will resolve all claims and
5 potential claims by the Receiver, the JOLs, and all DLIF Investors who do not
6 opt-out.

7 In return for the Settlement Amount, the Receiver, the JOLs, the DLI
8 Entities, the Party Investors,³ and Participating DLIF Investors will release all
9 claims against the D&Os arising out of, relating to, or in connection with the
10 Released Claims.⁴ The Claimants and Participating Investors will be barred by

11 _____
12 ² Participating DLIF Investors and DLIFF Investors who do not opt-out
13 (“Participating DLIFF Investors”) together are referred to as “Participating
14 Investors”.

15 ³ The Receiver, the JOLs, the DLI Entities, and the Party Investors are
16 collectively referred to as the “Claimants”.

17 ⁴ “Released Claims” means, to the fullest extent that the law permits their release,
18 all past, present, and future claims of any nature whatsoever, including, without
19 limitation, all claims, suits, actions, allegations, damages (including, without
20 limitation, contributory, compensatory, punitive, exemplary, rescissory, direct,
21 consequential or special damages, restitution, and disgorgement), liabilities,
22 causes of action, complaints, lawsuits, responsibilities, demands, rights, debts,
23 penalties, costs, expenses, fees, injunctive relief, attorneys’ fees, expert or
24 consulting fees, prejudgment interest, indemnities, duties, losses, and obligations
25 of any kind, known or unknown, foreseen or unforeseen, whether or not
26 concealed or hidden, asserted or unasserted, existing or contingent, direct or
27 indirect, anticipated or unanticipated, asserted or that could have been asserted
28 by, or on behalf of, for the benefit of, or in the name of, any or all of, the
Claimants or Participating DLIF Investors, whether legal, contractual, rescissory,
statutory, or equitable in nature, whether arising under federal, state, common or
foreign law, that now exist, have ever existed, or might ever exist, from the
beginning of time in perpetuity, that arise out of or relate in any way, directly or
indirectly to: any of the DLI Receivership Entities, DLIFF, the Receivership, the
Receiver, the JOLs, any investors’ investment in the DLI Entities or a Released
Party’s performance of his/her/its/their duties as a director, officer, employee,
agent, owner, member, manager, attorney or service provider of or to any of the
DLI Entities, or the events, transactions, occurrences and/or allegations (i) set
forth or described in, (ii) which were or could have been brought in, or (iii) which
arise out of or relate in any way to the institution, prosecution, or settlement of
any of the matters: the following actions and proposed actions: (i) *SEC v. Direct
Lending Invs., LLC*, Case No. 2:19-cv-02188 (C.D. Cal. Mar. 22, 2019); (ii) *SEC
v. Ross*, Case No. 2:20-cv-07202 (C.D. Cal. Aug. 8, 2020); (iii) *Marcia Kosstrin
Trust v. Direct Lending Invs., LLC*, Case No. 2:19-cv-02452 (C.D. Cal. Apr. 1,
2019); (iv) *United States v. Ross*, Case No. 2:20-cr-327 (C.D. Cal. July 30, 2020);

1 the Final Approval Order (defined below) from prosecuting or seeking monetary
2 or any relief in the United States against any of the Released Parties⁵ with respect
3 to any and all such claims. Any final verdict or judgment obtained by or on behalf
4 of any Claimant or Participating DLIF Investor against any Third Party⁶ shall be
5 reduced by the proportionate fault of the Released Parties, unless governing law
6 requires otherwise.

7 PLEASE TAKE FURTHER NOTICE that the Receiver has filed in
8 *Securities and Exchange Commission v. Direct Lending Investments, LLC*, Case
9 No. 19-cv-2188 (C.D. Cal.) (the “SEC Action”) the Motion for Order: (i)
10 Preliminarily Approving Settlement with D&Os; (ii) Setting the Schedule for
11 Objections and Final Approval Hearing; (iii) Approving the Form of Order
12 Finally Approving the Settlement with D&Os; and (iv) Approving the Form
13 and/or Limitation of Notice of Motion Under Local Rule 66-7 (the “Motion”).
14 The Parties to the Settlement Agreement seek approval of the Court in the SEC
15 Action of the terms of the Settlement Agreement and entry of a final order
16 approving the Settlement (the “Final Approval Order”).

17 _____
18 (v) *Sharp v. The Strawberry Peak Trust*, Case No. 2:22-cv-789 (C.D. Cal. Feb.
19 4, 2022); and (vi) any draft complaints disclosed in connection with the mediation
among the parties.

20 ⁵ “Released Parties” means: (a) the D&Os and any and all of DLI Entities’ other
21 former employees, officers, or directors, and (b) each Defendant and proposed
22 Defendant in any of the Underlying Litigations, including Jill Jasen f/k/a Jill
23 Ross, S.R.1, and S.R.2, and each of the foregoing’s current or former respective
24 advisors, agents, servants, attorneys, auditors, accountants, consultants, officers,
25 officials, directors and employees, employers, owners, partners, partnerships, law
26 firms, corporations (limited liability or otherwise), limited liability companies,
partnerships, trusts, co-shareholders, parents, subsidiaries, affiliates, joint
venturers, contractors, subcontractors, insurers, stockholders, investors, heirs,
trustees, executors, fiduciaries, administrators, predecessors, successors,
custodians, representatives, subrogees, transferees, nominees, assignors, and
assigns, including any entity, limited liability company, trust, partnership or
corporation such person was affiliated with or employed by, as set forth in more
detail in the Agreement.

27 ⁶ “Third Party” means a nonparty to the Settlement Agreement that has been or
28 may be sued by any of the Claimants or Participating DLIF Investors for claims
arising out of, relating to, or in connection with the DLI Entities.

1 **This matter may affect your rights and you may wish to consult an**
2 **attorney.**

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

- 4 1. The D&O Policy Insurers agree to pay, on behalf of the D&Os, from
5 the proceeds of applicable insurance policies, the total sum of
6 eighteen million U.S. dollars (\$18,000,000);
- 7 2. Reserves shall be paid out of the Settlement Amount to pay for any
8 remaining legal costs and expenses incurred by the Ross Parties
9 and/or the D&Os relating to the finalization and approval of the
10 Settlement Agreement and any investigation or defense against any
11 pending related litigation;
- 12 3. The Settlement Agreement is contingent upon Court approval of and
13 consummation of related claims of the Receiver against the
14 Strawberry Peak Trust, Ross and his family members;
- 15 4. Investors shall have the right to exclude themselves from
16 participation in the Settlement pursuant to the procedures described
17 in the applicable Opt-out Notice. In the event that Investors that opt-
18 out of the Settlement exceed a certain threshold agreed upon by the
19 signatories to the Settlement Agreement (“Opt-out Threshold”), the
20 D&Os shall have the sole and exclusive right to withdraw from and
21 terminate the Settlement Agreement;
- 22 5. Counsel for the Claimants and the D&Os are executing a
23 confidential Supplemental Agreement Regarding Requests for
24 Exclusion. This supplemental agreement sets forth certain
25 conditions under which the D&Os shall have the option to withdraw
26 from the Settlement and render the Settlement Agreement null and
27 void in the event that the Opt-out Threshold is reached;

1 6. The Receiver and the Party Investors have entered into a separate
2 agreement that \$2,000,000 of the Settlement Amount shall be paid
3 to the Receivership Estate to be distributed to DLIF Investors and
4 DLIFF, leaving a Net Settlement Amount of \$8,900,000 to be split
5 equally between the Receiver to be distributed to the DLIF Investors
6 and DLIFF, on the one hand, and the Party Investors, on the other
7 hand;

8 7. Entry of Final Approval Order: specifying (i) that each of the
9 Claimants and Participating DLIF Investors release each of the
10 Released D&Os from all Released Claims; (ii) that each of the
11 Claimants and Participating Investors are barred from seeking
12 monetary or other relief in any state or federal court, arbitration
13 proceeding, or other forum in the United States against any of the
14 Released D&Os with respect to any and all claims based on the
15 professional services provided by D&Os to the DLI Entities; and
16 (iii) any final verdict or judgment obtained by or on behalf of any
17 Claimant or Participating DLIF Investor against any Third Party
18 shall be reduced by an amount that corresponds to the percentage of
19 responsibility of the Released D&Os for damages. However, where
20 the law governing such final verdict or judgment (“Other Governing
21 Law”) requires a reduction in a different amount, the final verdict or
22 judgment shall be reduced by an amount as provided by Other
23 Governing Law.

24 8. An Agreement Regarding Disbursement of Attorneys’ Fees,
25 attached as Exhibit F to the Settlement Agreement, establishes an
26 Attorneys’ Fund in the amount of up to \$5,400,000 to compensate
27 the attorneys who represented the Party Investors and the Receiver,
28

1 subject to Court approval of the Attorneys' Fee Motion [Dkt. No.
2 1002]. The Receiver, JOLs, and the D&Os do not object to the
3 Attorneys' Fee Motion; and,

- 4 9. The Receiver will disseminate notice of the Settlement Agreement
5 as set forth in the Preliminary Approval Order entered in the SEC
6 Action [Dkt. No. 1009], including via this Notice to all Interested
7 Parties⁷ and the applicable Opt-out Notice to all Investors (through
8 one or more of the following: first class mail, e-mail, or international
9 delivery) and provide Publication Notice.

10
11 PLEASE TAKE FURTHER NOTICE that the Court in the SEC Action
12 will hold a hearing to decide whether to approve the Settlement Agreement and
13 enter the Final Approval Order (the "Final Approval Hearing"). The Final
14 Approval Hearing is set for April 14, 2025 at 1:30 p.m.

15 Any Person who wishes to object to the terms of the Settlement Agreement
16 or the Final Approval Order, or who wishes to appear at the Final Approval
17 Hearing, must e-mail a written objection to TeamDLI@stretto.com no later than
18 March 24, 2025.

19 All objections must:

- 20 1. contain the name, address, telephone number, and (if applicable) an
21 e-mail address of the Person filing the objection;
22 2. contain the name, address, telephone number, and e-mail address of
23 any attorney representing the Person filing the objection;
24 3. be signed by the Person filing the objection, or his or her attorney;

25
26 ⁷ Interested Parties means, collectively, all parties to the SEC Action, all known
27 creditors, all known Investors of DLI Entities, all Claimants, and, to the extent
28 not already included in the foregoing, Opus Fund Services (USA) LLC, Opus
Fund Services (Bermuda) Ltd., Duff & Phelps, LLC n/k/a Kroll, LLC, Deloitte
& Touche LLP, and EisnerAmper LLP.

- 1 4. state, in detail, the basis for any objection;
- 2 5. attach any document the Court should consider in ruling on the
- 3 Settlement Agreement and the Final Approval Order; and
- 4 6. if the Person filing the objection wishes to appear at the Final
- 5 Approval Hearing, make a request to do so.

6 Any Person submitting an objection shall be deemed to have submitted to
7 the jurisdiction of this Court for all purposes of that objection, the Settlement
8 Agreement, and the Final Approval Order. Potential objectors who do not present
9 opposition by the time and in the manner set forth above shall be deemed to have
10 waived the right to object (including any right to appeal) and shall be forever
11 barred from raising such objections in this action or any other action or
12 proceeding. Persons do not need to appear at the Final Approval Hearing or take
13 any other action to indicate their approval. The Court may decline to permit
14 anyone who fails to submit a written objection and request to appear at the Final
15 Approval Hearing as set forth in subparts (1) through (6) immediately above from
16 appearing at the Final Approval Hearing. The Court will exercise discretion as to
17 whether it wishes to hear from any person or entity who fails to make a timely
18 written objection and request to appear.

19 Any Investor who wishes to be excluded from the Settlement (or opt-out)
20 must send a written letter request for exclusion from the Settlement by e-mail to
21 TeamDLI@stretto.com, no later than March 31, 2025, and the written letter must:

- 22 1. contain the name, address, telephone number, and (if applicable) an
- 23 e-mail address of the Person filing the objection;
- 24 2. be signed by the Investor who wishes to be excluded from the
- 25 Settlement.

26 **For more information**, copies of the Settlement Agreement, the Motion,
27 and other supporting papers may be obtained from the Court's docket in the SEC
28

1 Action [Dkt. No. 995] and are also available on the website of the Receiver
2 (<http://case.stretto.com/dli>). Copies of these documents may also be requested by
3 email, by sending the request to TeamDLI@stretto.com or by telephone, by
4 calling the Stretto Administrator at 855-885-1564. DO NOT CONTACT THE
5 COURT DIRECTLY. Unless otherwise specified, all capitalized terms not
6 defined herein are defined in the Settlement Agreement.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: February 10, 2025 RAINES FELDMAN LITTRELL LLP

By: /s/ Kathy Bazoian Phelps
Kathy Bazoian Phelps
Counsel for Bradley D. Sharp
Permanent Receiver