Docket #0077 Date Filed: 7/15/2026

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
Medley LLC,	:	Case No. 21-10526 (KBO)
Debtor.	:	
MEDLEY LLC LIQUIDATING TRUST,	:	
Plaintiff-Appellee,	:	Adv. Pro. 23-50121-KBO
-against-	:	
EVERSHEDS SUTHERLAND (US) LLP,	:	Appeal from the United States Bankruptcy Court for the District of Delaware
Defendant-Appellant.	:	

DEFENDANT/APPELLANT EVERSHEDS SUTHERLAND (US) LLP'S OPENING BRIEF IN SUPPORT OF MOTION FOR LEAVE TO APPEAL ORDER DENYING MOTION FOR SUMMARY JUDGMENT

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Pursuant to 28 U.S.C. § 158(a)(3) and Federal Rule of Bankruptcy Procedure 8004(a), Defendant/Appellant, Eversheds Sutherland (US) LLP (**"Eversheds"**), moves (the **"Motion"**) for leave to appeal the *Memorandum Order Denying Motion for Summary Judgment Dismissing the Complaint* [D.I. 73][1] (the **"Order"**), entered on July 1, 2026 by the United States Bankruptcy Court for the District of Delaware (the **"Bankruptcy Court"**), denying the *Motion of Defendant Eversheds Sutherland (US) LLP for Summary Judgment Dismissing the Complaint* [D.I. 26] (**"Motion for Summary Judgment"**). (A copy of the Order is attached hereto as **Exhibit 1**.)

PRELIMINARY STATEMENT

The Bankruptcy Court erred when, respectfully, it refused to enforce an unambiguous contractual release (the **"Release"**) that barred the claims asserted against Eversheds by Plaintiff, the Medley LLC Liquidating Trust (the **"Liquidating Trust"**). Enforcing the Release in accordance with its unambiguous terms as required under applicable New York law would have been case dispositive. The present Motion, accordingly, meets the statutory criteria for an interlocutory appeal:

1. This appeal involves a "controlling question of law"—the Bankruptcy Court misinterpreted the scope of an unambiguous release in a manner that "would be reversible on appeal" and would result in dismissal of the entire case (*Katz v. Carte Blanche Corp*., 496 F.2d 747, 754 (3d Cir. 1974) (*en banc*));

2. There is "substantial ground for difference of opinion"—the manner in which the Bankruptcy Court misinterpreted the unambiguous release, and the misinterpretation itself, is contrary to the "well-established law" as articulated by New York's highest court (*In re JRV Grp.*

[1] The abbreviation "D.I." herein refers to the Adversary Proceeding Docket for Adv. Pro. 23-50121-KBO.

USA L.P., No. 19-11095 (KBO), 2022 WL 3646288, at *6 (D. Del. Aug. 24, 2022); *In re Marvel Entm't Grp., Inc*., 209 B.R. 832, 837 (D. Del. 1997)); and

3. An immediate appeal would "materially advance the ultimate termination of the litigation"—reversing the Order would be dispositive of the entire case based upon a "defense going to the right to maintain the action," in which merits document discovery has yet to be completed, the remainder of merits discovery—including depositions, third-party discovery, and expert discovery—has yet to commence, and no trial date has been set (*Katz*, 496 F.2d at 754; *JRV Grp.*, 2022 WL 3646288, at *6).

Indeed, this Motion seeking review of a denial of summary judgment is unlike most; the Motion is *not* based on the Bankruptcy Court's misevaluation of whether a genuine fact issue exists thereby precluding relief. The present Motion is, instead, directed towards whether the Bankruptcy Court misinterpreted the unambiguous scope of a Release that the court itself declared "is sufficiently broad to support Eversheds' interpretation," but nevertheless found the "interpretation unreasonable." (Order at 6.) This appeal, accordingly, is focused upon the Release's plain terms and their dispositive effect, falling squarely within the types of "release" defense matters "that regularly provide occasions for § 1292(b) appeal," including in the Third Circuit. 16 Wright & Miller, FEDERAL PRACTICE & PROCEDURE, *Jurisdiction* § 3931 (3d ed.) (citing *Three Rivers Motors Co. v. Ford Motor Co*., 522 F.2d 885, 887 n.1 (3d Cir.1975)); *see also Shaver v. Siemens Corp*., 670 F.3d 462, 470 (3d Cir. 2012); *Ruehl v. Viacom, Inc*., 500 F.3d 375, 380 (3d Cir. 2007).

For these reasons, and as explained in further detail below, the Court should grant Eversheds leave to appeal the Order on an interlocutory basis.

JURISDICTIONAL STATEMENT

Eversheds seeks interlocutory review of the Order pursuant to 28 U.S.C. § 158(a)(3). This Motion, and the accompanying Notice of Appeal, are timely under Fed. R. Bankr. P. 8002 and 8004(a)(1) as they are being filed within fourteen (14) days after entry of the Order.

Though filed with the Bankruptcy Court, this Motion is properly directed to the United States District Court for the District of Delaware. Fed. R. Bankr. P. 8004(c); *see In re Bertoli*, 812 F.2d 136, 138 (3d Cir. 1987) ("motions for leave to file an interlocutory appeal are directed entirely at the district court").

FACTS NECESSARY TO UNDERSTAND THE QUESTION PRESENTED

General Background

This appeal arises out of the bankruptcy case of Medley LLC (the **"Debtor"**). The Debtor filed its bankruptcy petition on March 7, 2021 (the **"Petition Date"**). On October 18, 2021, the Bankruptcy Court confirmed the Debtor's bankruptcy Plan under which the Liquidating Trust was formed and empowered to assert causes of action and claims that had belonged to the Debtor.

Eversheds is a law firm that, for many years prior to and after the Petition Date, provided legal services to the Debtor, its parent company, Medley Management Inc. (**"Management"**), certain of its affiliates, and certain of its officers and directors, including Brook and Seth Taube (the **"Taubes"**).

Beginning in September 2019, Eversheds represented the Debtor, Management and, for a period, the Taubes and other of Management's and the Debtor's executives in a complex Securities and Exchange Commission (**"SEC"**) investigation that ended in an SEC settlement of the investigation and related proceedings. Eversheds devoted thousands of hours of attorney time to the effort which ultimately ended in a settlement with SEC. The services provided included over

$2 million in legal fees and costs incurred after the Petition Date for which Eversheds sought and obtained a final fee order from the Bankruptcy Court under Section 503 of the Bankruptcy Code.

The Settlement Agreement and Release

The Liquidating Trust retained a phalanx of lawyers to investigate potential claims against Management and the Debtor's officers and directors, including the Taubes. The claims investigated included potential avoidance claims under chapter 5 of the Bankruptcy Code and director fiduciary duty claims that were potentially covered by insurance.

On a parallel track with negotiations towards a final settlement with the SEC, on March 23, 2022, the Liquidating Trust entered into a settlement agreement with Management and the Taubes (the **"Settlement Agreement"**). (A copy of the Settlement Agreement is attached hereto as **Exhibit 2**.) The Settlement Agreement provided, among other things, that Management and the Taubes would pay the Trust approximately $13.2 million to settle claims, including the chapter 5 claims, other than director fiduciary duty claims. (Settlement Agreement § 3.) Management and the Taubes received, among other things, the Release as consideration. Eversheds was not a named "Party" to, and did not sign, the Settlement Agreement. (Settlement Agreement at pp. 1, 12.)

The Release is set forth in Section 6.1 of the Settlement Agreement. Its states as follows in relevant part:

> On the ***Release Date***, the Liquidating Trust, the Liquidating Trustee and the Debtor (the "***Liquidating Trust Releasing Parties***") hereby release, waive, relinquish, disavow and forever discharge [Management], the Taubes, [the Taubes' trust], and the Executives and all of their respective affiliates, subsidiaries, . . . ***legal advisors***, . . . and ***attorneys of each of the foregoing*** (collectively, the "***Taube Released Parties***"), of and from ***any and all Released Claims***. . . .

(Settlement Agreement § 6.1.)

Thus, the "Taube Released Parties" include the parties' respective "legal advisors" and "attorneys." There is no dispute that Eversheds was one of these "legal advisors" and "attorneys."

The Settlement Agreement further defines "Released Claims" as including any Cause of Action (other than director fiduciary duty claims), including claims "arising under chapter 5 of the Bankruptcy Code and local, state and federal law analogues. . . ." (Settlement Agreement, Recital J.) And "Cause of Action" is defined to include "any claims, . . . causes of action, . . . liabilities . . ., whether known or unknown, . . . liquidated or unliquidated . . ., in contract, tort, law, equity, or otherwise against any party," including claims pursuant to sections "544 through 550, or 553 of the Bankruptcy Code. . . ." (*Id.*, Schedule I.) There is no dispute that the claims made by the Liquidating Trust in the present litigation all fall within this definition.

Section 6.2 of the Settlement Agreement provides a release of certain claims by the Taube Released Parties against the Liquidating Trust Releasing Parties:

> On the Release Date, the Taube Released Parties hereby release, waive, relinquish, disavow and forever discharge the Debtor, the Liquidating Trust and the Liquidating Trustee of and from any and all claims, actions, or causes of action arising under or related to sections 502(h) or 503 of the Bankruptcy Code.

Id. § 6.2.

The "Release Date" for the Release was conditioned upon, among other things, the SEC settlement with the Taubes and Management being filed as well as provision of (i) a side letter agreement between the Trust and Eversheds (the **"Eversheds Letter"**) and (ii) a forbearance agreement among Eversheds (as well as other law firms that were retained during the SEC investigation to represent the individual directors and officers of Management and/or the Debtor), Management, the Taubes, and certain other directors and officers (the **"Forbearance Agreement"**). *Id.* § 5. (Copies of the Eversheds Letter and Forbearance Agreement are attached hereto as **Exhibits 3 and 4** respectively.) There is nothing on the face of either the Eversheds Letter or the Forbearance Agreement that carves Eversheds out from the scope of the Section 6.1 Release.

Rather, to enable the Trust to maximize recoveries for the Debtor's creditors, Eversheds agreed in the Eversheds Letter *first to seek payment on its court-approved Section 503 claim from insurance* and to forbear *seeking any amounts from the Liquidating Trust* until distributions could be funded to certain other creditors. (Order at 4.) (Ex. 3.) And under the Forbearance Agreement, Eversheds (and the other law firms who signed it) agreed to *forbear from seeking payment from insurance* until the Liquidating Trust received payment from the insurers in settlement of director fiduciary duty claims. (Order at 4.) (Ex. 4 ¶ 5.)

The Complaint

On March 3, 2023, the Liquidating Trust commenced the above-captioned adversary proceeding (the **"Adversary Proceeding"**) seeking to avoid, under chapter 5 of the Bankruptcy Code, $5,362,699.92 in payments made to Eversheds for legal services it had provided. [D.I. 1.] Eversheds filed its Answer on June 23, 2023 but inadvertently did not include "settlement and release" as an affirmative defense. [D.I. 4.] The oversight was discovered on April 23, 2025, prior to the cutoff-date for document discovery, and before commencement of depositions, third-party discovery and expert discovery on the underlying merits of the Liquidating Trust's claims. [D.I. 28 ¶¶13-14; D.I. 22.]

By stipulation under Fed. R. Civ. P. 15, Eversheds filed a First Amended Answer and Counterclaim including "settlement and release" as an affirmative defense on May 1, 2025 and the next day moved for summary judgement based upon the Release. [D.I. 25, 26.] Merits discovery was then suspended to enable directed discovery relating to and resolution of the potentially dispositive Motion for Summary Judgment. [*See* D.I. 31, 35, 38, 40, 42, 44.] On January 9, 2026, the Liquidating Trust opposed the Motion for Summary Judgment [D.I. 45], on January 30, 2026, Eversheds filed a reply in support of the motion [D.I. 55], and on June 3, 2026, the Bankruptcy Court heard oral argument.

The Order

On July 1, 2026, the Bankruptcy Court entered the Order denying the Motion for Summary Judgment. After reiterating the history and relevant terms of the Settlement and Release, and related agreements, the Bankruptcy Court stated that, to prevail, Eversheds must show that "the parties intended to include Eversheds as part of the Taube Released Parties under the Settlement Agreement" and observed that "[t]he best evidence of the parties' intent is the written agreement." *Id*. at 6. The Bankruptcy Court then determined that "the definition of 'Taube Released Parties' is sufficiently broad to support Eversheds' interpretation" of the Release scope. (*Id*.) However, the Bankruptcy Court then discounted the foregoing determination and instead found "the interpretation unreasonable after reviewing the Settlement Agreement as a whole." (*Id*.)

In particular, the Bankruptcy Court held that "the definition of the Taube Released Parties must be read alongside the Section 6.2 release, the Eversheds Letter, and the Forbearance Agreement," and based upon that reading, concluded "the parties did not intend to include Eversheds in the Section 6.1 Release as part of the Taube Released Parties." (*Id*.) The Bankruptcy Court reasoned that "[i]f the parties intended to include Eversheds as part of the Taube Released Parties, then these agreements to forbear would be unnecessary because Eversheds released its Section 503 Claim under Section 6.2." (*Id*.) The ruling on the parties' "intent" is not only incorrect based upon the words of the Settlement Agreement itself but, more importantly for the present Motion, is contrary to settled New York law governing contractual interpretation and, in particular, determining the scope of claim releases.

STATEMENT OF QUESTION PRESENTED

The question to be presented in this appeal is as follows:

Did the Bankruptcy Court commit legal error in determining as a matter of law that Eversheds was not released in accordance with the express language of the Settlement Agreement and Release?

RELIEF SOUGHT

By this Motion, Eversheds requests that the Court grant leave to appeal the Order as an interlocutory order appealable under 28 U.S.C. § 158(a)(3). By this appeal, Eversheds seeks reversal of the Order and a remand directing the Bankruptcy Court to enter summary judgment dismissing the adversary proceeding.

THE REASONS LEAVE TO APPEAL SHOULD BE GRANTED

A. Standard of Review

This Court is vested with jurisdiction to hear appeals "with leave of the court, from . . . interlocutory orders and decrees of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title." 28 U.S.C. § 158(a)(3). Section 158(a)(3) does not identify a standard for determining whether to grant interlocutory review. Accordingly, courts in this Circuit import the criteria set forth in 28 U.S.C. § 1292(b) to determine when granting leave to appeal an interlocutory order of a bankruptcy court is appropriate. *See. e.g., In re Moon Grp. Inc*., No. 21-11140 (JKS), 2023 WL 3848338, at *4 (D. Del. June 6, 2023); *JRV Grp.*, 2022 WL 3646288, at *3.

Under 28 U.S.C. § 1292(b), an interlocutory appeal is permitted when the appealed order (i) involves a "controlling question of law," (ii) "as to which there is a substantial ground for a difference of opinion" and (iii) "an immediate appeal from the order may materially advance the ultimate termination of the litigation." *See Katz*, 496 F.2d at 754. Indeed, the Court should apply

these criteria to allow interlocutory appeal in light of the recognized policy reasons and "exceptional circumstances" that justify a departure from the competing policy of awaiting review until entry of a final judgment. *Moon Grp*., 2023 WL 3848338, at *4. The Order here, and the purpose for the present Motion, meet each of the Section 1292(b) criteria and satisfy the policy reasons and exceptional circumstances warranting leave to appeal.

B. The Appeal Involves a "Controlling Question of Law"

A "controlling question of law" includes whether the appealed order, "if erroneous, would be reversible error on final appeal" or if the question on appeal is "serious to the conduct of the litigation either practically or legally." *Katz*, 496 F.2d at 755; *see id*. (a "clear case" of a controlling question of law is "one which would result in a reversal of a judgment after final hearing"). Indeed, resolving a dispositive legal issue on appeal that would save time and the "expense of the litigants," as a practical matter, is a "'highly relevant factor'" in determining whether the issue is "serious to the conduct of the litigation." *Moon Grp*., 2023 WL 3848338, at *4 (quoting *Century Indem. Co. v. Boy Scouts of Am*., No. 20-10343 (LSS), 2021 WL 1174573, at *4 (D. Del. Mar. 29, 2021)).

This appeal satisfies both factors. It involves the construction of an unambiguous contractual release that would be reviewed *de novo* and would be reversible on appeal for the reasons set forth in part C below. It is thus a "pure question of law." *See Houston Cas. Co. v. Truist Fin. Corp.,* No. 1:18-CV-1472-SB, 2021 WL 3422357, at *1 (D. Del. Aug. 5, 2021) ("The interpretation of a contract is a pure question of law."). And the question is "controlling" and would save time and expense because if the Bankruptcy Court's construction of the Release is erroneous, it would not only "be reversible error on final appeal" but would also be dispositive of the entire case. *Moon Grp*., 2023 WL 3848338, at *4 ("controlling question of law" where "the Complaint must be dismissed if the order is reversed").

The first criterion—a "controlling question of law"—is therefore met.

C. There Are Substantial Grounds for a Difference of Opinion

The second criterion—whether there is a "substantial ground for a difference of opinion"—is also readily met. The Order is a textbook candidate for interlocutory review because it turns not on disputed facts, but on a controlling question of contract interpretation under New York law as to which substantial grounds for difference of opinion plainly exist. In particular, the Order "is contrary to well established law" and is therefore reviewable for that reason. *JRV Grp.*, 2022 WL 3646288, at *6; *Marvel*, 209 B.R. at 837-38.[2]

As the Bankruptcy Court pointed out, the Release is governed by New York law and was negotiated by the Liquidating Trust, the Taubes and Management through their counsel—all of which are sophisticated parties. (Order at 6, 7.) And as the Bankruptcy Court also pointed out, in the Release negotiated by the sophisticated parties "the definition of 'Taube Released Parties' is sufficiently broad to support Eversheds' interpretation" that it is included within the scope of the Release—the plain terms of the Release itself are unambiguous. (*Id*. at 6.) New York courts routinely enforce litigation releases that include non-signatory "agents and attorneys" within their scopes. *See, e.g., Coby Group, LLC v. Kriss*, 881 N.Y.S.2d 101, 102 (N.Y. App. Div. 1st Dep't 2009); *Berkowitz v. Fischbein, Badillo, Wagner & Harding*, 777 N.Y.S.2d 99, 101 (N.Y. App. Div. 1st Dept. 2004); *Argyle Cap. Mgmt. Corp. v. Lowenthal, Landau, Fischer & Bring, P.C.*, 690 N.Y.S.2d 256, 257 (N.Y. App. Div. 1st Dept. 1999).

[2] *JRV Grp*. highlights the reason leave should be granted in this case. In *JRV Grp*., the bankruptcy court had denied a motion to dismiss based upon a release "*without prejudice*" and "did not even address the release issue possibly recognizing that it involved disputed questions of fact and that nothing would prevent [the movant] from seeking dismissal of the case on the basis of the releases once the factual record was further developed." 2022 WL 3646288, at *7. Accordingly, after allowing interlocutory appeal on some issues, the District Court found that there existed "no pure question of law involved" and, therefore, "an interlocutory appeal of that aspect of the Order is not appropriate *at this time*." *Id*. at *7 (emphasis added). The present appeal, by contrast, features *no disputed facts* and involves a *pure question of law* based upon the plain language of the Release. Thus, unlike *JRV Grp*., leave to file this interlocutory appeal is "appropriate at this time."

Once the Bankruptcy Court found the Release unambiguous as negotiated by sophisticated parties, the analysis should have ceased under New York law and summary judgment should have been entered based upon the standalone terms of Section 6.1 and the relevant definitions of phrases used in Section 6.1 regardless of whether the court may have viewed the resulting scope as "unreasonable" based upon related documents. *See Smith v. City of New York,* ___ N.E. 3d ___, 2025 WL 3671272, at *1 (N.Y. Dec. 18, 2025) (where unambiguous, "[a]s with contracts generally, the courts must look to the language of a release—the words used by the parties—to determine their intent") (quoting *Wells v. Shearson Lehman/Am. Exp., Inc*., 72 N.Y.2d 11, 19 (N.Y. 1988)). *See also Geier v. Mozido, LLC*, No. CV 10931-VCS, 2016 WL 5462437, at *3 (Del. Ch. Sept. 29, 2016) ("Where parties are sophisticated and represented by counsel, and the language of the release is clear, New York courts are even more inclined to look only to the language of the release to ascertain objectively the parties' intent with respect to the scope of the release.") (citing *Locafrance U.S. Corp. v. Intermodal Systems Leasing, Inc*., 558 F.2d 1113, 1115 (2d Cir. 1977) ("When, as here, a release is signed in a commercial context by parties in a roughly equivalent bargaining position and with ready access to counsel, the general rule is that, if 'the language of the release is clear, . . . the intent of the parties (is) indicated by the language employed.'") (quoting *German Roman Catholic Orphan Home v. Liberty National Bank & Trust Co. (In re Schaefer)*, 221 N.E.2d 538, 540 (N.Y. 1966)).

In any event, settled New York law also makes clear that even in instances where other provisions and related contractual documents are considered, they may not be relied upon "to superimpose an unnatural or unreasonable construction." *Maurice Goldman & Sons, Inc. v. Hanover Ins. Co*., 607 N.E.2d 792, 793 (N.Y. 1992); *see Vermont Teddy Bear Co. v. 538 Madison Realty Co.*, 807 N.E.2d 876, 879 (N.Y. 2004) ("'courts may not by construction add or excise terms, nor distort the meaning of those used and thereby make a new contract for the parties under

the guise of interpreting the writing'") (quoting *Reiss v. Financial Performance Corp*., 764 N.E.2d 961 (N.Y. 2001)). The Bankruptcy Court did not adhere to these settled principles of New York law when it determined, contrary to the unambiguous Release language of Section 6.1 and its own finding that Eversheds is included within the scope of that Release, that "it is clear that the parties did not intend to include Eversheds in the Section 6.1 Release as part of the Taube Released Parties." (Order at 6.)

At the heart of the Bankruptcy Court's ruling is its reference to Section 6.2 of the Settlement Agreement—the so-called "reciprocal" release that "released the claims held by the Taube Released Parties against the Debtor under sections 502(h) and 503 of the Bankruptcy Code." (*Id*.) The court also pointed to the Eversheds Letter and the Forbearance Agreement under which Eversheds agreed to seek payment on its court-approved Section 503 claim from insurance and to forbear seeking any amounts from the Liquidating Trust until distributions could first be funded to certain unsecured creditors. (*Id*. at 6.) The Bankruptcy Court concluded that "[i]f the parties intended to include Eversheds as part of the Taube Released Parties, then these agreements to forbear would be unnecessary because Eversheds released its Section 503 Claim under Section 6.2." (*Id*. at 7.)

The reciprocal release and the related agreements compel the opposite conclusion; indeed, the Bankruptcy Court's construction "distort[s] the meaning" of the unambiguous Release terms directly contrary to settled New York law. *Vermont Teddy Bear*, 807 N.E.2d at 879. To be sure, Section 6.2 is a reciprocal release that refers to the Liquidating Trust's obligations under Section 503 of the Bankruptcy Code. But Eversheds is not a named "Party" or signatory to the Settlement Agreement and therefore is not a party to the purported "reciprocal" release as a matter of New York law. *Killian v. Metropolitan Life Ins*. Co., 166 N.E. 798 (N.Y. 1929) (release ineffective where "[n]o re-lease or other document was signed by the children or by any one in their behalf");

see 19A N.Y. JUR. 2d *Compromise, Accord, and Release* § 85 (June 2026 Update) ("The general rule is that a party may validly release only claims that belong to the party except where the party acts in a representative capacity in behalf of the owner of the claim.") (citing *Killian* and *Tibbetts Contracting Corp. v. O & E Contracting Co*., 206 N.E.2d 340 (N.Y. 1965)).

Contrary to the Bankruptcy Court's determination, the Eversheds Letter and the Forbearance Agreement are consistent and in recognition of the fact that the Liquidating Trust *could not enforce* the purported reciprocal release against Eversheds as a non-signatory under New York law, whether the Liquidating Trust "intended" to or not. (Order at 6.) The documents upon which the Bankruptcy Court relied explain that the Liquidating Trust's goal was "to maximize the distribution" of money to unsecured creditors "by avoiding . . . the incumbent dissipation of assets and insurance proceeds that may otherwise be available for distribution to creditors." (Ex. 3.) (Order at 4.) To enable the Liquidating Trust to "maximize" recoveries for unsecured creditors without Eversheds seeking to recover its court-ordered, priority Section 503 administrative expenses ahead of the unsecured creditors, the Liquidating Trust needed to (i) *delay Eversheds (and the other agreeing law firms) seeking to recover money from the Debtor's insurers that could be used to fund unsecured creditor recoveries* and (ii) *delay Eversheds from seeking to recover money from the Debtor's estate under Section 503 of the Bankruptcy Code before creditors were paid*.

The Liquidating Trust's goal was accomplished first through the Eversheds Letter requiring Eversheds first to seek payment for its approved Section 503 claim from insurers and forbear payment from the Liquidating Trust and estate until unsecured creditor distributions were made; *the creditors were to be paid from the estate first*. (Ex. 3.) (Order at 4.) And the Liquidating Trust's goal was further accomplished through the Forbearance Agreement under which Eversheds (and the other firms) agreed to forbear seeking reimbursement from the insurers until the Liquidating

Trust had ample opportunity to reach a settlement with the insurers to fund distributions to creditors; *Eversheds' recovery from insurers was delayed until the creditor fund could be funded through settlement with the insurers*. (Ex. 4.) (Order at 4.)

Accordingly, The Bankruptcy Court's conclusion that the Eversheds Agreement and the Forbearance Agreement "would be unnecessary because Eversheds released its Section 503 Claim under Section 6.2" improperly "distort[s]" of the Release's unambiguous terms. The court's conclusion founded upon its reference to the Forbearance Agreement and the Eversheds Letter was itself an "unreasonable" interpretation based upon the plain language of the Release and the terms and purposes of both Eversheds Agreement and the Forbearance Agreement.

Moreover, Eversheds *itself* never agreed to *waive* collection of its substantial fees in any agreement, much less in one to which it was a signatory. To the contrary, in entering the Letter Agreement, Eversheds and the Liquidating Trust agreed to *preserve* Eversheds right to collect its fees *from insurance* regardless of any "reciprocal" release but dictated *which insurance proceeds it could ultimately collect* on its approved Section 503 expenses and *when* it could start collecting. Ex. 3.) (Order at 4.) And the Letter Agreement also *preserved* Eversheds' right to recover its fees *from the Liquidating Trust*, but dictated *the order in which it could start collecting* on its approved Section 503 claim (*only when insurance is exhausted*) and *when* it could start collecting (*after creditor distributions were funded*). (Ex. 3.) (Order at 4.) The Letter Agreement that Eversheds and the Liquidating Trust signed—the only agreement to which they are both "Parties"—was consistent with the Liquidating Trust's effort to "maximize" recoveries for creditors and is a "side agreement" to the Settlement Agreement and Release in a form routinely utilized in connection with settlements for this very right modifying and staging purpose. *See, e.g Clarendon Nat'l Ins. Co. v. Trustmark Ins. Co*., No. 09 CIV. 9896 (BSJ), 2012 WL 13176199, at *2 (S.D.N.Y. Jan. 13,

2012); *Int'l Rail Partners, LLC v. Am. Rail Partners, LLC*, No. 2021-1029-PAF, 2025 WL 972576, at *5 (Del. Ch. Mar. 31, 2025).

Accordingly, there is no basis for the Bankruptcy Court to have relied on Section 6.2, the Letter Agreement and/or the Forbearance Agreement to nullify the unambiguous Release provisions which are applicable on their face to Eversheds, as the Bankruptcy Court itself concluded. Nor does the unenforceability of the reciprocal release in Section 6.2 *as to Eversheds* interfere with the enforceability of the Release in Section 6.1 *as to Eversheds*. The Settlement Agreement provides, as do most agreements, that "[i]f any provision is held invalid by the Bankruptcy Court or any other court of competent jurisdiction, such provision shall not invalidate the entire Agreement, but the Agreement shall be construed as not containing the particular provision held to be invalid. . . ." (Settlement Agreement § 20.)

For these reasons. the second criterion—whether there is a "substantial ground for a difference of opinion"—is also met because the Order "is contrary to well established law." *JRV Grp.*, 2022 WL 3646288, at *6; *Marvel*, 209 B.R. at 837-38.

D. An Immediate Appeal Would Materially Advance the Ultimate Termination of the Adversary Proceeding

The third criterion—whether "an immediate appeal from the order may materially advance the ultimate termination of the litigation"—is also met. An interlocutory appeal "materially advances" the litigation where its successful outcome would "'eliminate[ ] the need for trial'" and eliminate the need for further and remaining discovery. *JRV Grp.*, 2022 WL 3646288, at *6 (quoting *In re Paragon Offshore PLC*, No. AP 17-51882-CSS, 2020 WL 1815550, at *3 (D. Del. Apr. 9, 2020). Here, reversing the Order would be dispositive of the entire case based upon a "defense going to the right to maintain the action"—one of the very purposes of Section 1292(b) as the Third Circuit explained in *Katz*. 496 F.2d at 754; *see Crystallex Int'l Corp. v. Petróleos De*

Venezuela, S.A., No. CV 15-1082-LPS, 2016 WL 7440471, at *2 (D. Del. Dec. 27, 2016) (certifying interlocutory appeal because "[i]f the Third Circuit agrees with [appellant] and reverses one or both of this Court's holdings, this case would be terminated upon remand."); *In re Dwek*, No. CIV. 3:09-CV-5046, 2010 WL 234938, at *2 (D.N.J. Jan. 15, 2010) ("immediate appeal on this issue may result in the dismissal of [appellant's] . . . claim").

Accordingly, the third criterion—whether "an immediate appeal from the order may materially advance the ultimate termination of the litigation"—is also met because a successful appeal would terminate the entire adversary proceeding and would eliminate the need to complete discovery (including costly expert discovery) and to engage in a trial.

E. Leave to File an Interlocutory Appeal is Consistent with the Policy and Purpose of 28 U.S.C. § 158(a) and 28 U.S.C. § 1292(b)

The circumstances of this case justify this Court's discretion in departing from the basic policy of postponing review until after the entry of final judgment. In *Katz*, the *en banc* panel of the Third Circuit detailed the legislative history of Section 1292(b) and the "value judgments" Congress considered as to when there should be a "departure" from the final judgment rule. 496 F.2d at 754. One of the "value judgments" considered a "major concern" was "avoiding the wasted effort of a possibly protracted litigation over damages where there might be no liability"—a category that "bear[s] on the interpretation of § 1291(b)" where the potential for lengthy litigation "results from a pretrial order erroneously overruling a defense going to the right to maintain the action." *Id*. Indeed, the value judgment in permitting interlocutory review in this regard is directed towards "the possibility of considerable avoidable wasted trial time and litigation expense." *Id*. at 756; *In re Broadstripe*, LLC, No. C09-10006 (CSS), 2009 WL 774401, at *2 (D. Del. Mar. 26, 2009).

The Order rejecting Eversheds' case-dispositive Release defense falls squarely within the "value judgment" identified as a "major concern" in *Katz*. The Order overruled Eversheds' release defense which went to the Liquidating Trust's right to maintain the action in the first instance and resulted in the ongoing likelihood of wasted court time and expense for both Eversheds and the Liquidating Trust. It bears repeating that the dispositive nature of a release defense is the reason summary judgment denials are "regularly provide occasions for § 1292(b) appeal," including in the Third Circuit. FEDERAL PRACTICE & PROCEDURE, *supra*, § 3931; *see Three Rivers Motors Co.*, 522 F.2d at 887; *Shaver*, 670 F.3d at 470; *Ruehl*, 500 F.3d at 380. This appeal is no different and warrants the Court's discretion in granting leave. *Bertoli*, 812 F.2d at 140 ("authority of a district court to consider an interlocutory appeal as a matter of the district court's discretion").

CONCLUSION

For the foregoing reasons, Eversheds respectfully requests that the Court grant leave to appeal the Order as an interlocutory order, pursuant to the standards set forth under the law of this District and 28 U.S.C. § 1292(b), and grant Eversheds any further relief that Court finds just.

Dated: July 15, 2026
Wilmington, Delaware

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Counsel for Eversheds Sutherland (US) LLP

Exhibit 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
Medley LLC,	)	Case No. 21-10526 (KBO)
Debtor.	)	
Medley LLC Liquidating Trust,	)	
Plaintiff,	)	Adv. Proc. No. 23-50121 (KBO)
v.	)	**Related to Adv. D.I. 26**
Eversheds Sutherland (US) LLP,	)	
Defendant.	)	

MEMORANDUM ORDER DENYING MOTION FOR SUMMARY JUDGMENT DISMISSING THE COMPLAINT

Before the Court is the *Motion of Defendant Eversheds Sutherland (US) LLP for Summary Judgment Dismissing the Complaint* ("Motion for Summary Judgment").[1] For the reasons set forth herein, the Court will deny the request for summary judgment and in doing so, **HEREBY FINDS AND CONCLUDES** as follows:

I. JURISDICTION AND VENUE

The Court has subject matter jurisdiction over the claims in this proceeding under 28 U.S.C. § 1334(b), 28 U.S.C. § 157, and the *Amended Standing Order of Reference* of the United States District Court for the District of Delaware. Venue is proper under 28 U.S.C. § 1409(a).

II. SUMMARY OF UNDISPUTED MATERIAL FACTS

A. Events Leading to the Settlement Agreement

Plaintiff Medley LLC Liquidating Trust (the "Trust") is the successor in interest to the debtor Medley LLC (the "Debtor"). On March 3, 2023, the Trust filed this adversary proceeding against the defendant Eversheds Sutherland (US) LLP ("Eversheds"), a law firm.[2] Before the

[1] Eversheds' Mot. for Summ. J., Adv. D.I. 26.

[2] Trust's Compl., Adv. D.I. 1 (the "Compl.").

Debtor's chapter 11 bankruptcy case in 2021, the Securities and Exchange Commission ("SEC") began investigating the Debtor, its parent Medley Management Inc. ("MDLY"), and controllers Seth and Brook Taube (the "Taubes") for violating federal securities law.[3] These entities retained Eversheds to represent them in the SEC's investigation.[4]

The Debtor retained Eversheds as special counsel during the bankruptcy to advise on securities law and the SEC's investigation.[5] In connection with its retention application, Eversheds disclosed that within the 90 days of the bankruptcy, the Debtor's insurers paid Eversheds over $1 million.[6] Later, Eversheds filed a supplemental declaration further explaining that, prepetition, Eversheds represented the "Medley complex" – meaning, the Debtor, MDLY, certain directors and officers, and the Taubes.[7]

In October 2021, the Debtor's confirmed plan went effective, creating the Trust.[8] Shortly thereafter, Eversheds filed its final fee application, seeking $2.08 million.[9] The Court entered an order approving the application.[10] The order granted final allowance of compensation and reimbursement of reasonable and necessary expenses in the amount requested by Eversheds (the "Section 503 Claim").[11]

In February 2022, the SEC informed the Trust that it would not recommend an enforcement action against the Debtor but found that MDLY and the Taubes violated securities law.[12] That led to a settlement agreement between the SEC, MDLY, and Taubes.[13] Around the same time, the Trust was also investigating potential claims against MDLY and the Taubes and believed it found several causes of action under chapter 5 of the Bankruptcy Code and under state law for breach of fiduciary duty.[14] In March 2022, the Trust, MDLY, certain directors and officers, the Taubes, and the Taubes' trust entered a settlement agreement (the "Settlement Agreement").[15] Under that

[3] *Id.* ¶ 15.

[4] *Id.*

[5] Order Granting Eversheds' Employment Appl. D.I. 167.

[6] Eversheds' Employment Appl., D.I. 87, Ex. B ¶¶ 9, 14.

[7] Eversheds' Decl. for Employment Appl., D.I. 119 ¶ 8.

[8] Notice of Effective Date, D.I. 449.

[9] Eversheds' Final Fee Appl., D.I. 515; *see also* D.I. 561 ¶¶ 12-15 (Eversheds' declaration correcting oversight, reducing total amount requested to $2.08 million).

[10] Am. Order Awarding Eversheds' Final Fee Appl., D.I. 569.

[11] *Id.*

[12] Trust's Counsel Decl., Adv. D.I. 50, Ex. 2 (Email from Eversheds to Trustee explaining that the SEC settled).

[13] Trust's Resp., Adv. D.I. 49, Ex. A (the "Trust's Resp.") ¶ 12 (citing *Medley Mgmt. Inc.*, Exchange Act Release No. 94819, 2022 WL 1288228 (April 28, 2022)).

[14] Liquidating Trustee Decl., Adv. D.I. 51, Ex. A ¶ 3.

[15] Eversheds' Partner Decl., Adv. D.I. 28, Ex. 1.

agreement, MDLY and the Taubes paid the Trust approximately $13.2 million.[16] In exchange, the Trust released its claims against the parties.[17]

B. The Settlement Agreement

The Settlement Agreement includes two release provisions – sections 6.1 and 6.2. Section 6.1 releases the Trust's claims against the "Taube Released Parties" (the "Section 6.1 Release"):

> On the Release Date, the Liquidating Trust, the Liquidating Trustee and the Debtor (the "Liquidating Trust Releasing Parties") hereby release, waive, relinquish, disavow and forever discharge Medley, the Taubes, [the Taubes' trust], and the Executives and all of their respective affiliates, subsidiaries, family members, former spouses, trusts, former trusts (including, but not limited to, any trust that has been revoked or terminated), successors, heirs, and assigns, and other entities owned or controlled by them and their officers, directors and financial and legal advisors, and all employees, representatives, agents, vendors, and attorneys of each of the foregoing (collectively, the "Taube Released Parties"), of and from any and all Released Claims[.][18]

The "Taube Released Parties" term includes the parties' respective legal advisors and attorneys. The Settlement Agreement defines "Released Claims" as any Cause of Action that is not a Preserved Claim, including claims under chapter 5 of the Bankruptcy Code.[19] "Cause of Action" is defined broadly as "any claims, . . . causes of action, . . . liabilities . . ., whether known or unknown, . . . liquidated or unliquidated . . ., in contract, tort, law, equity, or otherwise against any party . . . ."[20]

Section 6.2 provides a reciprocal release (the "Section 6.2 Release"), releasing certain claims of the Taube Released Parties against the Liquidating Trust Releasing Parties, including those arising under section 503 of the Bankruptcy Code:

> On the Release Date, the Taube Released Parties hereby release, waive, relinquish, disavow and forever discharge the Debtor, the Liquidating Trust and the Liquidating Trustee of and from any and all claims, actions, or causes of action arising under or related to sections 502(h) or 503 of the Bankruptcy Code.[21]

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[16] Settlement Agreement § II.3.

[17] *Id.* § II.6.1.

[18] *Id.* § II.6.1.

[19] *Id.*, Recital J.

[20] *Id.*, Schedule I.

[21] *Id.* § II.6.2.

The Settlement Agreement conditions the "Release Date" on several events, including the execution and delivery of a letter agreement between the Trust and Eversheds ("Eversheds Letter") and a forbearance agreement between Eversheds, MDLY, the Taubes, and certain directors and officers ("Forbearance Agreement").[22] Under the Eversheds Letter, Eversheds agreed to first seek payment of the Section 503 Claim from applicable insurance and to forbear on seeking payment of any remaining amounts from the estate until the Trust received sufficient funds to make distributions to certain creditors, including those in classes 3 and 4 of the Debtors' chapter 11 plan.[23] Under the Forbearance Agreement, Eversheds agreed to forbear seeking reimbursement for the Section 503 Claim from available insurance until:

> the earlier of (a) five (5) business days after payment of insurance proceeds to the Liquidating Trust to consummate a settlement reached with the Liquidating Trust resolving its alleged Preserved Claims, (b) if the Settlement Agreement is voided or terminated for any reason, the date of such voiding or termination, and (c) June 30, 2022.[24]

The Trust negotiated these agreements to maximize the value of the Settlement Agreement and another settlement it reached on the Preserved Claims.[25]

After the Settlement Agreement, the Trust discovered during its investigation of additional estate causes of action certain discrepancies in Eversheds' retention application and supporting declarations.[26] Rather than receiving approximately $1 million during the preference period from insurance as had been disclosed, the Debtor's records showed that Eversheds received over $2 million directly from the Debtor.[27] The Trust informed Eversheds of this material discrepancy, and Eversheds filed a second supplemental declaration.[28] The Trust then filed a motion to vacate the final fee order approving the Section 503 Claim (the "Motion to Vacate").[29] During discovery, the Trust learned that Eversheds allocated only a portion of its approximate $2 million Section 503 Claim to work that it performed for the Debtor.[30] The remainder of the claim was on account of work performed for non-debtors MDLY and the Taubes. The parties ultimately settled the Motion to Vacate, reducing Eversheds' Section 503 Claim to approximately $436,000.[31]

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[22] Settlement Agreement § II.5.

[23] Eversheds' Letter, Adv. D.I. 28, Ex. 2 ¶¶ 1-2.

[24] Forbearance Agreement, Adv. D.I. 28, Ex. 3 ¶ 5.

[25] *See* Eversheds' Letter and Forbearance Agreement.

[26] Trust's Mot. to Vacate, D.I. 610.

[27] Trust's Resp. ¶ 25.

[28] Eversheds' 3d Suppl. Decl. for Eversheds' Employment Appl., D.I. 609.

[29] Trust's Mot. to Vacate, D.I. 610.

[30] Trust's Suppl. Decl., D.I. 672.

[31] Order Approving Mot. to Vacate Settlement, D.I. 686.

During its investigation, the Trust alleges that it also discovered that, between April 2017 and the Debtor's petition date, the Debtor transferred over $5.3 million to Eversheds. This amount includes the $2 million received during the 90-day preference period and another $3.3 million before the preference period.[32] The Trust filed this proceeding to avoid and recover the transfers.[33] Eversheds filed its answer, affirmative defenses, and counterclaims.[34] At this time, Eversheds did not raise the Section 6.1 Release as an affirmative defense. Almost two years later, however – after discovery and mediation – Eversheds filed an amended answer, raising this defense.[35]

III. RELEVANT PROCEDURAL HISTORY

On May 2, 2025, Eversheds filed its Motion for Summary Judgment.[36] The motion requests entry of summary judgment dismissing the Complaint on the basis that the Trust's claims have been fully released by the Section 6.1 Release.[37] The Trust opposes summary judgment, arguing for a variety of reasons that the release does not apply to Eversheds.[38] The Court held oral argument on the Motion for Summary Judgment, and the matter is ripe for adjudication.

IV. APPLICABLE LEGAL STANDARD

Under Rule 56 of the Federal Rules of Civil Procedure, made applicable to this proceeding by Rule 7056 of the Federal Rules of Bankruptcy Procedure, a court must grant summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."[39] If a reasonable jury could find there is a genuine dispute of material fact, the movant has failed to meet its burden.[40] A fact is material if it "'bears on an essential element of the plaintiff's claim.'"[41]

V. DISCUSSION

For Eversheds to obtain summary judgment on the Complaint, it must show that, among other things, the parties intended to include Eversheds as part of the Taube Released Parties under

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[32] Compl. ¶¶ 25, 32.

[33] *See generally* Compl.

[34] Eversheds' Answer, Adv. D.I. 4.

[35] Eversheds' Am. Answer, Adv. D.I. 25.

[36] Eversheds' Mot. for Summ. J., Adv. D.I. 26.

[37] *See generally* Eversheds' Br. for Mot. for Summ. J., Adv. D.I. 27.

[38] *See generally* Trust's Resp.

[39] Fed. R. Civ. P. 56(a).

[40] *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585 n.10 (1986) (citing Fed. R. Civ. P. 56(c)).

[41] *Fakete v. Aetna, Inc.*, 308 F.3d 335, 337 (3d Cir. 2002) (quoting *Cloverland-Green Spring Dairies, Inc. v. Pa. Milk Mktg. Bd.*, 298 F.3d 201, 210 (3d Cir. 2002)).

the Settlement Agreement. The Settlement Agreement is governed by New York law.[42] Under New York law, releases are governed by contract law.[43] Courts interpret a contract according to the parties' intent.[44] The best evidence of the parties' intent is the written agreement.[45] Unless the agreement is ambiguous, it "must be enforced according to the plain meaning of its terms."[46] Eversheds argues that the Section 6.1 Release unambiguously includes it as part of the Taube Released Parties.[47] It argues that Eversheds falls under the definition because it includes all legal advisors and attorneys for MDLY and the Taubes and that at the time of the Settlement Agreement, it was a legal advisor and attorney for MDLY and the Taubes in the SEC investigation.[48]

While the definition of "Taube Released Parties" is sufficiently broad to support Eversheds' interpretation, the Court finds the interpretation unreasonable after reviewing the Settlement Agreement as a whole. When determining the parties' intent, a court must consider the contract in its entirety.[49] "[S]pecific clauses of a contract are to be read consistently with the overall manifest purpose of the parties' agreement."[50] Moreover, "agreements executed at substantially the same time and related to the same subject matter are regarded as contemporaneous writings and must be read together as one."[51] Applying these principles, the definition of the Taube Released Parties must be read alongside the Section 6.2 Release, the Eversheds Letter, and the Forbearance Agreement. And when those are considered together, it is clear that the parties did not intend to include Eversheds in the Section 6.1 Release as part of the Taube Released Parties.

As mentioned, the Section 6.2 Release released the claims held by the Taube Released Parties against the Debtor under sections 502(h) and 503 of the Bankruptcy Code. Therefore, if Eversheds was included as a Taube Released Party, then its Section 503 Claim was intended by the parties to have been released under this reciprocal release. But it is clear that it was not released because of the parties' contemporaneous entry into the Eversheds Letter and the Forbearance Agreement. Under the Eversheds Letter, Eversheds agreed to look to insurance for payment on its Section 503 Claim and forbear from collecting any unpaid amounts until the Trust distributed funds

[42] Settlement Agreement § II.16.

[43] *Mangini v. McClurg*, 24 N.Y.2d 556, 562 (N.Y. 1969).

[44] *Greenfield v. Philles Records*, 98 N.Y.2d 562, 569 (N.Y. 2002).

[45] *Id.* (quoting *Slamow v. Delcol*,584 N.Y.S.2d 424, 425 (N.Y. 1992)).

[46] *Id.*

[47] Eversheds' Br. for Summ. J., Adv. D.I. 27 at 11.

[48] *Id.* at 13-14.

[49] *Ellington v. EMI Music, Inc.*, 24 N.Y.3d 239, 244 (N.Y. 2014) ("Where the terms of a contract are clear and unambiguous, the intent of the parties must be found within the four corners of the contract, giving a practical interpretation to the language employed and reading the contract as a whole.").

[50] *In re AMR Corp.*, 562 B.R. 20, 41 (Bankr. S.D.N.Y. 2016) (quoting *Barrow v. Lawrence United Corp.*, 538 N.Y.S.2d 363, 365 (N.Y. App. Div. 3d Dept. 1989)).

[51] *1471 Second Corp. v. NAT of NY Corp.*, 79 N.Y.S.3d 23, 24 (N.Y. App. Div. 1st Dept. 2018) (quoting *Flemington Natl. Bank & Trust Co. [N.A.] v. Domler Leasing Corp.*, 410 N.Y.S.2d 75, 77 (N.Y. App. Div. 1st Div. 1978), *aff'd* 421, N.Y.S.2d 881 (N.Y. 1979)).

to other creditors. Similarly, under the Forbearance Agreement, Eversheds agreed to forbear from seeking payment from insurance for a prescribed period. If the parties intended to include Eversheds as part of the Taube Released Parties, then these agreements to forbear would be unnecessary because Eversheds released its Section 503 Claim under Section 6.2. Instead, the agreements were considered critical to the Settlement Agreement.[52] This renders Eversheds' argument that it is part of the Taube Released Parties unreasonable.

Eversheds makes two arguments why the parties intended to include it among the Taube Released Parties notwithstanding the Section 6.2 Release, the Eversheds Letter, and the Forbearance Agreement, but the Court is not persuaded by either. First, Eversheds argues that the Section 6.2 Release is not enforceable as to Eversheds because it did not sign the Settlement Agreement.[53] Even if that is true, however, the enforceability of the Section 6.2 Release does not affect the ability of the Court to consider it in interpreting section 6.1. The parties included it and therefore it may be considered by the Court in rendering its interpretation of the Settlement Agreement. Moreover, Eversheds' argument on this point lends further support for why Eversheds is not included in the Taube Released Parties because such an interpretation would require the Court to disregard section 6.2 as to Eversheds. But when interpreting a contract, the Court must enforce it according to its terms and "give full meaning and effect to the material provisions."[54] "A reading of the contract should not render any portion meaningless."[55] For the reasons just explained, that cannot be done if Eversheds is among the Taube Released Parties.

Second, Eversheds argues that the Eversheds Letter and Forbearance Agreement represent the parties' agreement to modify and carve out Eversheds from the Section 6.2 Release.[56] However, when a contract is negotiated between sophisticated, counseled parties, courts should refrain from interpreting the contract as impliedly stating something that the parties failed to include.[57] There are no indications in the contract or otherwise that the parties intended to except Eversheds from the Section 6.2 Release. On the contrary, everything points to the logical conclusion that Eversheds was never included in the Taube Released Parties and thus never granted a release of the Trust's claims asserted in the Complaint.[58]

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[52] Indeed, the Eversheds Letter is expressly "integral and inextricable" to the Settlement Agreement. Eversheds' Partner Decl., Adv. D.I. 28, Ex. 2 at 2.

[53] Eversheds' Reply, Adv. D.I. 55 at 14 (citing *Killian v. Metropolitan Life Ins. Co.*, 166 N.E. 798 (N.Y. 1929)).

[54] *Beal Sav. Bank v. Sommer*, 834 N.Y.S.2d 44, 47 (N.Y. 2007) (quoting *Excess Ins. Co. Ltd. v. Factory Mut. Ins. Co.*, 789 N.Y.S.2d 461, 464 (N.Y. 2004)).

[55] *Id.*

[56] Eversheds' Reply, Adv. D.I. 55 at 14.

[57] *Vermont Teddy Bear Co. v. 538 Madison Realty Co.*, 775 N.Y.S.2d 765, 767-68 (N.Y. 2004) (citing *Rowe v. Great Atl. & Pac. Tea Co.*, 412 N.Y.S.2d 827, 833 (N.Y. 1978)).

[58] Eversheds' interpretation is also inconsistent with the parties' behavior following the execution of the Settlement Agreement. For instance, if they intended to include Eversheds as one of the Taube Released Parties, there would have been no need for the Trust to file its Motion to Vacate and certainly no need for Eversheds to have engaged with the Trust to negotiate a settlement. These actions are reflected on the Court's docket, of which it may take judicial notice.

VI. CONCLUSION

For the foregoing reasons, the Court hereby concludes and orders that Eversheds' Motion for Summary Judgment is **DENIED**.

Dated: July 1, 2026
Wilmington, Delaware

Karen B. Owens
Chief Judge

Notice Recipients

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Recipients submitted to the BNC (Bankruptcy Noticing Center) without an address:

pla	Medley LLC Liquidating Trust
cd	Medley LLC Liquidating Trust

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TOTAL: 4

Exhibit 2

Execution Copy

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and among Medley Management, Inc., a Delaware corporation ("Medley"), Brook Taube Trust ("BTT"), and Brook Taube and Seth Taube (collectively, the "Taubes"), and the Medley LLC Liquidating Trust ("Liquidating Trust") by and through Saccullo Business Consulting, LLC, as Liquidating Trustee (the "Liquidating Trustee"). Medley, BTT, the Taubes, the Liquidating Trustee and the Liquidating Trust is each referred to individually herein as a "Party" and collectively as the "Parties." The "Execution Date" of this Agreement is the date on which it has been executed by all Parties. Capitalized terms that are used herein but not defined shall have the meanings given to them in Schedule I attached hereto.

I. RECITALS

A. WHEREAS, Medley is a publicly-held company traded on OTCQB under the symbol MDLM, is registered with the Securities and Exchange Commission as an issuer of publicly traded securities, and was a managing member of Medley LLC (the "Debtor");

B. WHEREAS, the Debtor is a privately-held company that, on March 7, 2021, filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), Case No. 21-10526 (the "Bankruptcy Proceeding");

C. WHEREAS, on October 18, 2021, (i) the Bankruptcy Court entered the *Amended Findings Of Fact, Conclusions Of Law, And Order (I) Approving The Adequacy Of Disclosures On A Final Basis And (II) Confirming The Modified Third Amended Combined Disclosure Statement And Chapter 11 Plan Of Medley LLC* (Docket No. 445), approving the *Modified Third Amended Combined Disclosure Statement and Chapter 11 Plan of Medley LLC* (Docket No. 445-1) (the "Plan") and (ii) the Plan became effective;

D. WHEREAS, on October 18, 2021, the Debtor's assets, including the Causes of Action, automatically vested in the Liquidating Trust, and the Liquidating Trustee was authorized to: (i) pursue all such Causes of Action on behalf of the Liquidating Trust; and (ii) settle causes of action without Bankruptcy Court approval and subject only to the terms of the Liquidating Trust Agreement;

E. WHEREAS, certain past and current members of Medley's board of directors and officers listed on Schedule II to this Agreement (the "Executives") are third-party beneficiaries to this Agreement;

F. WHEREAS, the Liquidating Trustee has the responsibility to marshal and liquidate the Liquidating Trust's assets for distribution to holders of Allowed Claims under the Plan;

G. WHEREAS, the Liquidating Trustee has maintained its intent to pursue Causes of Action for damages on behalf of the Liquidating Trust against Medley, the Taubes, BTT and the Executives in their capacity as directors, officers, stakeholders or otherwise of the Debtor or Medley;

H. WHEREAS, the insurance policies listed in Schedule III hereto (the "Policies"), subject to their terms and conditions, provide, or have provided, coverage for Loss arising out of certain claims for Wrongful Acts by the Debtor, Medley, and Insured Persons;

I. WHEREAS, the Liquidating Trustee, on behalf of the Liquidating Trust, has alleged certain purported Causes of Action for damages against one or more of the Taube Released Parties (defined in Section 6.1 below) for Wrongful Acts which allegedly caused Loss for which the Liquidating Trustee contends one or more of the Policies provide coverage pursuant to the terms of the Policies (the "Preserved Claims");

J. WHEREAS, the Liquidating Trust has other alleged Causes of Action against one or more of the Taube Released Parties in addition to the Preserved Claims, including those arising under chapter 5 of the Bankruptcy Code and local, state and federal law analogues, which avoid, disgorge and compel restitution of monies received from the Debtor (the "Released Claims"). Further, any Cause of Action that the Liquidating Trust has against one or more of the Taube Released Parties that is not a Preserved Claim is a Released Claim;[1]

K. WHEREAS, Medley, Seth Taube, and Brook Taube (collectively, the "Taube Parties"), the Executives and certain other parties intend to enter into a Forbearance Agreement substantially in the form attached hereto as Exhibit A;

L. WHEREAS, the parties have agreed to enter into a mediation of the Preserved Claims (the "Mediation") and the Taube Parties will work in good faith to have the insurance carriers that issued the Policies participate in the Mediation;

M. WHEREAS, Medley, the Taubes, BTT, and the Executives deny, and do not admit, any liability or wrongdoing regarding the Released Claims and the Preserved Claims, and this Agreement may not be used or referred to in any proceeding for any reason; further, this Agreement shall not be interpreted as, does not constitute, and may not be used or referred to in any context as, an admission or any other type of evidence of alleged liability or wrongdoing. Notwithstanding the foregoing, the Parties may use this Agreement in a proceeding to enforce the provisions of this Agreement, solely as evidence that the Parties executed the Agreement and agreed to the terms set forth in the Agreement; and

N. WHEREAS, to avoid the risks, costs, fees, expenses, burdens, and distractions of further litigation, the Parties desire to finally and conclusively settle and compromise any and all Released Claims on the terms and conditions set forth below.

II. AGREEMENT

For good and valuable consideration, receipt of which is mutually acknowledged, the Parties, intending to be legally bound by this Agreement, agree as follows:

[1] For the avoidance of doubt, Preserved Claims and Released Claims are mutually exclusive, and this Agreement does not release Preserved Claims. Released Claims, on the other hand, include all claims for which Loss is not covered by any of the Policies pursuant to the terms of the Policies.

1. Adoption of Recitals. The recitals set forth above are adopted as part of the Agreement, and the facts set forth therein are acknowledged and agreed to be true and correct.

2. SEC Agreement as Condition Precedent. The Parties agree that the effectiveness of this Agreement is contingent upon the Taube Parties and the Securities and Exchange Commission ("SEC") entering into a settlement regarding the SEC's investigation entitled *In the Matter of Medley Capital Corporation*, File No. NY-10045 (the "SEC Offer of Settlement") and approval by the SEC. The SEC Offer of Settlement will be considered approved by the SEC on the day that the SEC files an Order Instituting Administrative and Cease-and-Desist Proceedings against the Taube Parties relating to the SEC Offer of Settlement (the "SEC Agreement").

2.1 The Taube Parties shall provide written notice to the Liquidating Trustee that either (a) the SEC Agreement has been filed by the SEC (the "Filing Notice"); or (b) no SEC Agreement will be filed by the SEC (the "Termination Notice").

2.2 Upon the Liquidating Trustee's receipt of the Termination Notice (if any), this Agreement shall be null and void and each component of the Settlement Payment (defined below) shall be returned to the Taube Parties or as they may otherwise direct.

3. The Settlement Payment. In full and final settlement of the Released Claims, the Taube Parties agree to collectively pay an amount of THIRTEEN MILLION TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS ($13,225,000) (the "Settlement Payment"), consisting of (a) TEN MILLION DOLLARS ($10,000,000) (the "Class 3 Payment"), to be held in escrow by Ankura Trust Company, LLC (the "Escrow Agent") and paid to the Liquidating Trust in the manner described in Section 3.1; (b) TWO MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS ($2,650,000) (the "Trust Payment"), to be paid to the Liquidating Trust in the manner described in Section 3.2; and (c) FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS ($575,000) (the "Contribution Payment"), to be held in an account at Schulte Roth & Zabel LLP ("Schulte") and paid to the Liquidating Trust in the manner described in Section 3.3. No amounts in this Agreement shall be subject to set off.

3.1 The Class 3 Payment. The Parties intend for Noteholders to be the ultimate recipients of the Class 3 Payment, with no deductions thereto, and agree that the Class 3 Payment will be made in the following manner:

i. Within three (3) Business Days of the Execution Date, the Taubes will provide the Liquidating Trustee with the current version of their escrow agreement with the Escrow Agent (the "Escrow Agreement"). The Taube Parties further agree that, once the Escrow Agreement is executed, any subsequent amendments thereto will not become effective without the consent of the Liquidating Trustee, whose consent will not be unreasonably withheld.

ii. Within ten (10) Business Days of executing the SEC Offer of Settlement, the Taubes will make the Class 3 Payment to the Escrow Agent and will notify the Liquidating Trustee that the Class 3 Payment has been made.

iii. The Escrow Agent will hold the Class 3 Payment in escrow until the Escrow Agent and the Taube Parties receive a letter from the Liquidating Trustee substantially in the form attached hereto as Exhibit B (the "Confirmation Letter").

iv. If the Liquidating Trustee has not delivered the Confirmation Letter to the Escrow Agent and Taube Parties by twenty-five (25) Business Days before the Distribution Deadline (the "Confirmation Deadline"), the Liquidating Trustee shall forfeit the right to receive the Class 3 Payment and the Escrow Agent shall be permitted to release the Class 3 Payment as the Taubes direct.

v. As provided in the Escrow Agreement, within three (3) Business Days of the Liquidating Trustee's delivering the Confirmation Letter to the Escrow Agent and the Taube Parties, the Escrow Agent must deliver to the Liquidating Trust, pursuant to wire instructions that the Liquidating Trustee will provide, the amount designated in the Confirmation Letter to be distributed to the Notes Trustee, up to and including the entire Class 3 Payment.

vi. If, after receiving funds from the Escrow Agent, the Liquidating Trustee determines that any representation in the Confirmation Letter is no longer accurate, the Liquidating Trust shall transfer those funds back to the Escrow Agent the next Business Day and the Liquidating Trustee shall forfeit the right to receive the Class 3 Payment. Otherwise, within ten (10) Business Days of receiving the Escrow Agent's transfer and those funds becoming available for transfer, the Liquidating Trust will distribute those funds to the Notes Trustee (the "Class 3 Distribution").

vii. Within five (5) Business Days after the Liquidating Trust makes the Class 3 Distribution, the Liquidating Trustee will send the Taube Parties and the SEC a certification substantially in the form attached hereto as Exhibit C (the "Liquidating Trustee Certification"). The Liquidating Trustee agrees that the Liquidating Trustee Certification will be true and correct.

viii. In addition to the Liquidating Trustee Certification, the Liquidating Trustee will make a good-faith effort to provide information reasonably requested by the SEC regarding the Class 3 Distribution.

ix. The Confirmation Deadline and the deadlines in Sections 3.1(vi) and 3.1(vii) may be extended by written agreement of the Parties, so long as each occurs prior to the Distribution Deadline. Consent will not be unreasonably withheld.

3.2 The Trust Payment. The Taube Parties agree to make the Trust Payment within five (5) Business Days of the Execution Date. The Taube Parties will make the Trust Payment by wire transfer to the client trust account for counsel to the Liquidating Trustee (the "Reid Collins Trust Account") according to the following wire instructions:

Broadway National Bank
1177 Northeast Loop 410
San Antonio, Texas 78209
Account Number: 4100077126
Bank ABA Number: 114021933
Account Name: Reid Collins & Tsai LLP IOLTA

Counsel for the Liquidating Trustee will transfer the Trust Payment to the Liquidating Trust on or after the Release Date. Prior to or contemporaneously with the Liquidating Trust's making the Class 3 Distribution to the Notes Trustee, the Liquidating Trust will pay ONE HUNDRED NINETY-ONE THOUSAND FIFTY-FOUR DOLLARS AND SIXTY-FIVE CENTS ($191,054.65) from the Trust Payment to the Notes Trustee in full satisfaction of the Charging Lien.

3.3 The Contribution Payment. The Taube Parties agree to transfer the Contribution Payment to Schulte within five (5) Business Days of the Execution Date and to provide written confirmation of such payment to the Liquidating Trustee. The Taube Parties shall instruct Schulte to transfer the Contribution Payment to the Liquidating Trust as may be required under any settlement of the Preserved Claims. If no such settlement is reached by June 30, 2022 (or such later date as may be agreed by the Parties), this provision shall be of no further force and effect and there shall be no obligation to pay the Contribution Payment to the Liquidating Trust at any time and Schulte shall be permitted to remit the Contribution Payment back to the Taube Parties.

4. Liquidating Trust's Forbearance. In connection with the Mediation, the Liquidating Trust agrees: (1) to forbear from filing any claims or causes of action in any court or tribunal against the Taube Released Parties (defined below) until the earlier of (a) June 30, 2022, (b) the Termination Notice, and (c) the Agreement becoming null and void pursuant to Section 5; and (2) that its monetary demand to settle each of the Preserved Claims will be not more than the remaining coverage limits for each of the Policies applicable to such Preserved Claims after the Permitted Draws (as that term is defined in the Forbearance Agreement).

5. Release Date. The Parties agree that the releases set forth in Section 6 hereof will become effective upon the satisfaction of the following conditions (the "Release Date"): (1) each Party hereto has received a fully executed copy of the Agreement; (2) the Liquidating Trustee has received written confirmation that the Class 3 Payment has been deposited with the Escrow Agent pursuant to Section 3.1(ii); (3) the Liquidating Trustee has received an executed copy of the Escrow Agreement and any amendments thereto and notified the Taube Parties that it is acceptable;[2] (4) the Trust Payment has been deposited into the Reid Collins Trust Account pursuant to Section 3.2; (5) the Liquidating Trustee has received written confirmation of the transfer of the Contribution Payment to Schulte pursuant to Section 3.3; (6) the Forbearance Agreement has been executed and delivered to the Liquidating Trustee; (7) the Eversheds Letter has been executed and delivered to the Liquidating Trustee; and (8) the Liquidating Trustee receives the Filing Notice. If any of these conditions cannot

[2] The Liquidating Trustee's determination of whether the Escrow Agreement and amendments thereto are acceptable must be reasonable.

be met, this Agreement shall be null and void and each component of the Settlement Payment shall be returned to the Taube Parties or as they may otherwise direct.

6. Releases. On the Release Date, the Parties will make the following respective releases. For the avoidance of doubt, nothing in this Section 6 or elsewhere in this Agreement releases any Party from the obligations contained in this Agreement.

6.1 Liquidating Trust's Releases. On the Release Date, the Liquidating Trust, the Liquidating Trustee and the Debtor (the "Liquidating Trust Releasing Parties") hereby release, waive, relinquish, disavow and forever discharge Medley, the Taubes, BTT, and the Executives and all of their respective affiliates, subsidiaries, family members, former spouses, trusts, former trusts (including, but not limited to, any trust that has been revoked or terminated),[3] successors, heirs, and assigns, and other entities owned or controlled by them and their officers, directors and financial and legal advisors, and all employees, representatives, agents, vendors, and attorneys of each of the foregoing (collectively, the "Taube Released Parties"), of and from any and all Released Claims, whether considered claims, actions, or causes of action (including, without limitation, any claims for contract or tort damages, punitive damages, misrepresentation, violation of any law, statute, or administrative regulation, contribution, apportionment, equitable indemnity, express and/or contractual indemnity, unasserted claims, third-party actions, counter claims, or cross claims, and any other damages or loss or other form of relief, any avoidance action and any cause of action), debts, demands, payments, rights, obligations, loss, judgments, awards, attorneys' fees, costs, expenses, interests, damages, lawsuits, liabilities, claims for reimbursement for costs or expenses, offsets, counterclaims, and defenses to collection or enforcement, benefits and causes of action of whatever kind, nature or character, known or unknown, suspected, fixed or contingent, past or present or hereinafter acquired, in law or in equity, from conduct of any nature whatsoever, which the Liquidating Trust Releasing Parties may have or claim to have, against any of the Taube Released Parties; provided however, that notwithstanding the foregoing, nothing in this Agreement releases any Preserved Claim that the Liquidating Trust has or may have against any of the Taube Released Parties or anyone else. Further, notwithstanding the foregoing, nothing in this Agreement releases claims held by the Debtor against any of its direct or indirect subsidiaries or held by any of those subsidiaries against any of the direct or indirect subsidiaries of the Debtor.

6.2 Taube Released Parties Releases. On the Release Date, the Taube Released Parties hereby release, waive, relinquish, disavow and forever discharge the Debtor, the Liquidating Trust and the Liquidating Trustee of and from any and all claims, actions, or causes of action arising under or related to sections 502(h) or 503 of the Bankruptcy Code.

7. Unknown Claims. The releases in Section 6 are executed with the full knowledge and understanding by the Parties that there may be more serious consequences or damages that are now not known. The Parties knowingly, voluntarily, and expressly waive, to the fullest extent permitted by law, any and all rights they may have under any statute or any common law principle that would limit the effect of the releases in Section 6 based upon their knowledge at the time they execute this Agreement. The Parties expressly waive their respective rights under the provisions of Section 1542 of the California Civil Code, which provides as follows:

[3] For the avoidance of doubt, this includes B. Taube 2014 Associates LLC, the Seth and Angie Taube Trust, A. Taube 2014 Associates, LLC, and S. Taube 2014 Associates, LLC.

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

8. No Admission of Liability. This Agreement is intended as a compromise and shall be confidential as such to the maximum extent permitted by law. This Agreement is not intended and shall not be construed as an admission of liability by any Party.

9. Mutual Representations and Warranties. The Parties, and each of them, represent, warrant, and agree with each other as of the Execution Date and on the Release Date as follows:

9.1 Each Party has received or has had the opportunity to receive independent legal advice from attorneys of his or her choice with respect to the advisability of making the settlement and release provided herein, and with respect to the advisability of executing and being bound by this Agreement.

9.2 Except as expressly stated in this Agreement, no Party has made any statement or representation to any other Party regarding any fact that may be relied upon by any other Party in entering into this Agreement, and each Party specifically does not rely upon any statement, representation, or promise of any other Party in executing this Agreement, or in making the settlement provided for herein, except as expressly stated in this Agreement.

9.3 Each Party has made such investigation of the facts pertaining to this settlement and this Agreement, and all the matters pertaining thereto, as each Party deems necessary.

9.4 The terms of this Agreement are contractual, not a mere recital, and are the result of negotiation among all the Parties.

9.5 This Agreement has been carefully read by, the contents hereof are known and understood by, and it is signed freely by, each Person executing this Agreement on behalf of a Party; and each Person executing this Agreement on behalf of a Party in a representative capacity is empowered to do so.

9.6 This Agreement has been drafted by the Parties' respective counsel and is to be construed neutrally and not for or against any Party.

10. Representations and Warranties. Each Party specified below makes further and specific representations and warranties that are true and correct as of the Execution Date and shall remain true and correct until the time of performance contemplated under this Agreement is completed unless otherwise specified below.

10.1 Medley's Representations and Warranties. Medley has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and to otherwise to carry out its obligations hereunder. This Agreement, having been duly and validly authorized, executed and delivered on behalf of Medley, shall constitute

the legal, valid, and binding obligations of Medley, enforceable against Medley in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery, and performance by Medley of this Agreement and the consummation by Medley of the transactions contemplated hereby and thereby will not: (a) conflict with or violate any provision of Medley's certificate of incorporation, bylaws or other organizational or charter documents, in any material respect; (b) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, result in the creation of any options, contracts, agreements, liens, security interests, or other encumbrances upon any of the properties or assets of Medley, or give to others any rights of termination, amendment, acceleration or cancellation of (with or without notice, lapse of time or both), any agreement, credit facility, debt, indenture or other instrument to which Medley is a party or by which any property or asset of the Medley is bound or affected, in a way that would cause material adverse effect to the Medley; or (c) result in a violation of any law, rule, regulation, order, judgment, decree or other restriction of any court or governmental authority (including federal and state securities or "blue sky" laws) applicable to Medley or by which any property or asset of Medley is bound or affected, in any material respect.

10.2 BTT's Representations and Warranties. BTT has the requisite legal power and authority to enter into and to consummate the transactions contemplated by this Agreement and to otherwise carry out their obligations hereunder. This Agreement, having been duly and validly authorized, executed and delivered on behalf of BTT, shall constitute the legal, valid, and binding obligations of BTT, enforceable against BTT in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery, and performance by BTT of this Agreement and the consummation by BTT of the transactions contemplated hereby and thereby will not: (a) conflict with or violate any provision of BTT's or its subsidiaries' governing documents in any material respect; (b) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, result in the creation of any options, contracts, agreements, liens, security interests, or other encumbrances upon any of the properties or assets of BTT or any of its subsidiaries, or give to others any rights of termination, amendment, acceleration or cancellation of (with or without notice, lapse of time or both), any agreement, credit facility, debt, indenture or other instrument to which BTT or any of its subsidiaries is a party or by which any property or asset of BTT or any of its subsidiaries is bound or affected, in a way that would cause material adverse effect to BTT or its subsidiaries; or (c) result in a violation of any law, rule, regulation, order, judgment, decree or other restriction of any court or governmental authority (including federal and state securities or "blue sky" laws) applicable to BTT or any of its subsidiaries or by which any property or asset of BTT or any of its subsidiaries is bound or affected, in any material respect.

10.3 Liquidating Trustee's Representations and Warranties and Covenants. The Liquidating Trustee hereby represents and warrants that (i) this Agreement has been duly and validly authorized, executed and delivered on behalf of the Liquidating Trust, shall constitute the legal, valid and binding obligations of the Liquidating Trust and shall be enforceable

against the Liquidating Trust; (ii) it has complied with all provisions of the Liquidating Trust Agreement and the Plan necessary to validly enter into this Agreement, including Section 3.2.13 of the Liquidating Trust Agreement; and (iii) the Liquidating Trust will not be seeking Bankruptcy Court approval of this Agreement.

11. Confidentiality. Unless otherwise agreed, the Parties agree to keep any performance under this Agreement confidential and not to disclose documents and communication related to performance under this Agreement, except: (i) to their respective attorneys, professionals, agents and accountants; (ii) to any government agency or regulatory authority and their employees and agents; (iii) to the insurance carriers insuring the Policies; (iv) with respect to the Liquidating Trustee, the Oversight Committee as defined in the Liquidating Trust Agreement; or (v) as required by law or legal process. If a Party is required by law or legal process to disclose this Agreement, such Party will, if practicable, give the other Parties prompt notice of such request so that any other Party may seek an appropriate protective order at its sole cost and expense. In the absence of a protective order, the Party required by law or legal process to disclose this Agreement may do so, provided that it has asked the person or entity requesting this Agreement to treat it as confidential. Notwithstanding the foregoing, the Parties may disclose this Agreement or the terms thereof in connection with any litigation concerning its subject matter, and the Parties further agree that the Liquidating Trustee may disclose its receipt and distribution of the Settlement Payment, or any part thereof, in connection with its reporting obligations under 28 U.S.C. § 589b and related rules and regulations.

12. Modification and Counterpart Copies. This Agreement may only be modified by a written instrument executed by all the Parties. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party, except as specifically set forth in this Agreement. All prior discussion and negotiations have been and are merged and integrated into, and are superseded by, this Agreement. So long as each Party executes this Agreement, a copy of this Agreement, whether signed by one Party or multiple parties, shall have the same force, effect, and validity as an original Agreement executed by all Parties.

13. Attorneys' Fees. Each Party shall bear its own attorney's fees and costs related to this Agreement and the releases herein. Notwithstanding the foregoing, in the event suit is brought or an attorney is retained by any Party to this Agreement to enforce its terms, or to collect any damages due for breach hereof, each Party shall be solely and exclusively responsible for its own attorneys' fees, court costs, costs of investigation, and other related expenses incurred in connection therewith. Nothing in this Agreement is construed as a waiver by any Party of any rights under any insurance policy.

14. Caption and Titles. The captions and titles contained in this Agreement are inserted herein only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

15. Construction of Agreement. Each of the Parties has read and agreed to the terms of the Agreement after consulting with counsel, and the language of this Agreement shall, therefore, not be presumptively construed either in favor of or against any of the Parties.

16. Governing Law and Forum. In the event any Party seeks to enforce this Agreement including through a declaratory or similar action or to assert a claim for its breach, each of the Parties

hereby expressly consents to the exclusive jurisdiction of the Bankruptcy Court. The Parties agree that the Agreement shall be governed and construed in accordance with the laws of the State of New York.

17. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective agents, attorneys, executors, guardians, companies and affiliates, partners, members, beneficiaries, managers, officers, employees, heirs, successors and assigns.

18. Relationship of Parties. Nothing in this Agreement shall be deemed or construed to constitute or create any agency, partnership, or affiliation agreement among or between any of the Parties; no Party shall have any power to obligate or bind the other Party in any manner whatsoever.

19. Waiver. No waiver by either Party of a breach or a default hereunder shall be deemed a waiver of a subsequent breach or default of a like or similar nature.

20. Severability. If any provision is held invalid by the Bankruptcy Court or any other court of competent jurisdiction, such provision shall not invalidate the entire Agreement, but the Agreement shall be construed as not containing the particular provision held to be invalid, and the rights and obligations of the Parties shall be construed accordingly.

21. Notices. Any notice or certification required by this Agreement shall be provided in writing via overnight mail and via email to each of the Parties and in the following manner:

To the Liquidating Trustee:

Eric D. Madden, Esq.
Reid Collins & Tsai LLP
1601 Elm Street, Suite 4200
Dallas, Texas 75201
emadden@reidcollins.com

To Medley:

Adele Hogan, Esq.
Lucosky Brookman LLP
111 Broadway, Suite 807
New York, New York 10006
ahogan@lucbro.com

To the Taubes and BTT

Douglas Koff, Esq.
Schulte Roth & Zabel LLP
919 3rd Ave.
New York, New York 10022
douglas.koff@srz.com

22. Third-Party Beneficiaries. The Executives are third-party beneficiaries of this Agreement and the releases contained herein.

Signature page follows.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the Execution Date.

MEDLEY LLC LIQUIDATING TRUST

By: Saccullo Business Consulting, LLC, as Liquidating Trustee
Name:
Title:
Date:

MEDLEY MANAGEMENT, INC.

DocuSigned by:
Richard Allorto
34AE2EF3EF94454...
Name: Richard Allorto
Title: Chief Financial Officer
Date: 3/23/22

DocuSigned by:
Brook Taube
97EC428ED9B64E3...
Brook Taube
Date: 3/23/22

DocuSigned by:
Seth Taube
89EA0E1756E5419...
Seth Taube
Date: 3/23/22

BROOK TAUBE TRUST

DocuSigned by:
Brook Taube
97EC428ED9B64E3...
Name: Brook Taube
Title: N/A
Date 3/23/22

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the Execution Date.

MEDLEY LLC LIQUIDATING TRUST

By: Saccullo Business Consulting, LLC, as Liquidating Trustee
Name: Anthony M Saccullo
Title: Liquidating Trustee
Date: 3/23/22

MEDLEY MANAGEMENT, INC.

Name:
Title:
Date:

Brook Taube
Date:

Seth Taube
Date:

BROOK TAUBE TRUST

Name:
Title:
Date

SCHEDULE I
DEFINED TERMS

"*2024 Notes*" means the senior unsecured notes with a maturity date of January 20, 2024 issued by the Debtor pursuant to the Notes Indenture.

"*2026 Notes*" means the senior unsecured notes with a maturity date of August 15, 2026 issued by the Debtor pursuant to the Notes Indenture.

"*Allowed*" means, with respect to any Claim against the Debtor (including any administrative Claim) or portion thereof, (a) any Claim that has been listed by the Debtor in the schedules (as such schedules may be amended by the Debtor or the Liquidating Trustee from time to time in accordance with Bankruptcy Rule 1009) as liquidated in amount other than zero or unknown and not disputed or contingent, and for which no proof of claim has been filed, (b) any timely filed proof of claim or request for payment of an administrative Claim, as to which no objection to the allowance thereof, or action to subordinate, avoid, classify, reclassify, expunge, estimate, or otherwise limit recovery with respect thereto, has been filed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, the bar date order entered by the Bankruptcy Court or any other final order, and which applicable period of limitations has expired, (c) any Claim expressly allowed by a final order or under the Plan, or (d) any Claim that is compromised, settled or otherwise resolved pursuant to the authority granted to the Liquidating Trustee under Article X of the Plan and the Liquidating Trust Agreement; *provided*, *however*, that Claims temporarily allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered Allowed Claims; *provided*, *further*, that any Claim subject to disallowance in accordance with section 502(d) of the Bankruptcy Code shall not be considered an Allowed Claim.

"*Bankruptcy Rules*" means the Federal Rules of Bankruptcy Procedure.

"*Business Day*" means a day during which banks operating in New York State, Connecticut, and Texas are open for business.

"*Cause of Action*" or "*Causes of Action*" means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise against any party, including current and former directors, officers, and employees of the Debtor and its affiliates. Causes of Action also include, but are not limited to: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest Claims or interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

"*Charging Lien*" means the lien or priority of payment in the amount of $191,054.65 to which the Notes Trustee is entitled under the Notes Indenture and Plan against any distributions to be made from the Liquidating Trust to holders of Notes Claims.

"*Claim*" means any claim, as defined in section 101(5) of the Bankruptcy Code, against the Debtor.

"*Defense Expenses*" means the necessary costs, charges, expenses, and fees, including attorney's, expert's, mediator's, and arbitrator's fees, incurred in defending a Claim, and the premium for appeal, attachment, or similar bond.

"*Distribution Deadline*" is the deadline established by the SEC in which the SEC is to be provided with documentation by the Taube Parties in the form acceptable to the SEC that the Class 3 Payment was provided to the Noteholders. The Parties understand that the SEC deems the Confirmation Letter and the Liquidating Trustee Certification sufficient documentation in this regard. The Parties further understand that, as of the Execution Date, the Distribution Deadline is expected to be 180 days after the SEC files the SEC Agreement. If the SEC subsequently extends that deadline, the Distribution Deadline automatically becomes the latest date that the SEC allows. While the SEC has established the Distribution Deadline, the SEC has not directed this Agreement or the Settlement Payment to be made.

"*Eversheds Letter*" means that certain letter agreement between Eversheds Sutherland (US) LLP and the Liquidating Trust executed in March 2022 and concerning the Amended Omnibus Order Awarding Final Fee Applications entered as Docket No. 569 in the Bankruptcy Proceeding.

"*Insured Person*" means a natural person who was a director, officer, or employee, or the functional equivalent of the foregoing, of Medley or the Debtor.

"*Liquidating Trust Agreement*" means that certain Liquidating Trust Agreement and Declaration of Trust filed as Docket No. 371-1 in the Bankruptcy Proceeding.

"*Loss*" means (i) Defense Expenses; and (ii) damages, judgments, settlements, and prejudgment and postjudgment interest that an Insured Person is legally obligated to pay as a result of a Cause of Action or written demand for monetary damages.

"*Notes*" means, collectively, the 2024 Notes and the 2026 Notes.

"*Management Services*" means acts by an Insured Person solely in his or her capacity as a director, officer, or employee of Medley or the Debtor.

"*Notes Claims*" means, collectively, all Claims derived from or based upon the Notes or the Notes Indenture, including in each case Claims for all principal amounts outstanding, interest, expenses, costs, and other charges arising thereunder or related thereto.

"*Notes Indenture*" means that certain indenture agreement (as may be amended, restated, supplemented, or otherwise modified from time to time) dated August 9, 2016, between the Debtor, as issuer, and U.S. Bank National Association, as trustee, that governs the 2024 Notes and 2026 Notes.

"*Notes Trustee*" means U.S. Bank National Association, in its capacity as trustee under the Notes Indenture.

"*Noteholders*" means holders of the Notes.

"*Wrongful Act*" means (1) an error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed or attempted by an Insured Person performing, or failing to perform, Management Services; or (2) a matter claimed against an Insured Person solely by reason of his or her service in such capacity.

SCHEDULE II

LIST OF EXECUTIVES

Richard T. Allorto, Jr.

John Fredericks

Jeffrey Tonkel

Christopher Taube

Samuel Anderson

Guy Rounsaville, Jr.

James G. Eaton

Jeffrey T. Leeds

SCHEDULE III

LIST OF THE POLICIES

Insurer	Policy No.
Berkshire Hathaway Specialty Insurance Company	47-EPF-301833-03
Starr Indemnity & Liability Company	1000059851171
Allied World Insurance Company	031-3481
Allianz Global Risks US Insurance Company	USF00298219
Euclid Financial Institution Underwriters, LLC	EFI0701412 00
Old Republic Professional Liability, Inc.	ORPRO 42450
Travelers Casualty and Surety Company of America	106601622
Freedom Specialty Insurance Company	XMF1702465
Endurance American Insurance Company	FIX10007675802
Allianz Global Risks US Insurance Company	DOX2010224

EXHIBIT A

FORM OF FORBEARANCE AGREEMENT

FORBEARANCE AGREEMENT AND AGREEMENT TO MEDIATE

This Forbearance Agreement and Agreement to Mediate (the "Agreement") is entered into and effective as of March 23, 2022, and with respect to each party hereto, as of the date that such party executes this Agreement, (the "Effective Date"), by and among Medley Management, Inc., a Delaware corporation, and its undersigned counsel ("Medley"), Brook Taube, Seth Taube, Jeffrey Tonkel, Richard Allorto, Samuel Anderson and John Fredericks, and their undersigned counsel (collectively, the "Medley D&Os"), and Eversheds Sutherland (US) LLP ("Eversheds"), in its capacity as counsel for, *inter alia*, Medley LLC and Medley Management, Inc. Medley, the Medley D&Os, and Eversheds are each referred to individually herein as a "Party" and collectively as the "Parties." Capitalized terms that are used herein but not defined shall have the meanings given to them in Schedule I attached hereto.

I. RECITALS

A. WHEREAS, Medley LLC is a privately-held company that, on March 7, 2021, filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, Case No. 21-10526, in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

B. WHEREAS, Medley, its affiliates, and subsidiaries (collectively, the "Medley Entities"), and its officers and directors were insured under three towers of insurance policies, as set forth on Schedule II (collectively, the "Insurance Policies") attached hereto;

C. WHEREAS, the Medley D&Os served as directors or officers of the Medley Entities (together with the Medley Entities, the "Insured Parties");

D. WHEREAS, the Medley LLC Liquidating Trust (the "Liquidating Trust") is releasing Medley, the Medley D&Os, and certain other individuals and entities from the alleged Causes of Action that the Liquidating Trust has against one or more of the Insured Parties, except for the Preserved Claims (defined below), (the "Releases") in connection with that certain Settlement Agreement and Release, dated on or about the date hereof among Medley, Brook Taube Trust, Brook Taube, Seth Taube, and the Liquidating Trust (the "Settlement Agreement");

E. WHEREAS, in connection with that Settlement Agreement, Saccullo Business Consulting, LLC, as liquidating trustee (the "Liquidating Trustee") for the Liquidating Trust, has agreed that the Liquidating Trust's monetary demand in connection with the mediation of certain alleged Causes of Action for damages against one or more of the Insured Parties for Wrongful Acts which caused Loss for which the Trustee contends one or more of the Insurance Policies provide coverage pursuant to the terms of the Insurance Policies (the "Preserved Claims") will be not more than the remaining coverage limits for each of the Insurance Policies, thus leaving an amount of insurance limits

available under the Insurance Policies for other purposes, including payment of defense fees;

F. WHEREAS, the Liquidating Trust has agreed to forbear from bringing any claims or causes of action against the Parties prior to the mediation contemplated in Section 4 below;

G. WHEREAS, the Liquidating Trust has asked Medley and the Medley D&Os to forbear from accepting and seeking the reimbursement of fees and expenses allegedly incurred or owed, except for the limitation on such forbearance as set forth in this Agreement (the "Forbearance");

H. WHEREAS, the Parties acknowledge that all rights, arguments, and claims with respect to the Parties' legal fees and expenses are reserved according to the terms and conditions memorialized in this Agreement;

I. WHEREAS, the Parties acknowledge that the companies that issued the Insurance Policies have reserved all rights with respect to the availability and extent of coverage afforded under the Insurance Policies in connection with the Preserved Claims.

J. WHEREAS, this Agreement is conditioned upon Medley, Brook Taube and Seth Taube, and the Securities and Exchange Commission ("SEC") agreeing to a settlement regarding the SEC's investigation entitled *In the Matter of Medley Capital Corporation*, File No. NY-10045 and that settlement's final approval by the SEC (the "SEC Agreement"); if the SEC Agreement is not executed, this Agreement and the Forbearance hereunder shall be null and void.

II. AGREEMENT

For good and valuable consideration, receipt of which is mutually acknowledged, the Parties, intending to be legally bound by this Agreement, agree as follows:

1. Adoption of Recitals; Conditions Precedent. The Parties agree that this Agreement is conditioned upon execution and delivery of the Settlement Agreement.

2. Agreement to Allocate and Seek Payment of Certain Funds. The Parties agree to the prior allocation among counsel of the remaining available funds from the Starr Indemnity & Liability Company Policy (Policy Number 1000059851171), as listed on Exhibit A of this Agreement, for legal and advisory fees and expenses. The Parties further agree that Eversheds and Wilmer Cutler Pickering Hale and Dorr LLP ("Wilmer") can seek payment of those funds, according to the agreed-upon allocation, upon the SEC Agreement's execution. According to the agreed-upon allocation, Eversheds can seek payment of $644,143, and Wilmer can seek payment of $364,408, with each of Eversheds and Wilmer reserving its rights to seek payment of such amounts even if the SEC Agreement is not executed.

3. Agreement to Forbear. Except as provided in Paragraph 2 of this Agreement, during the Forbearance Period (defined below) the Parties agree to not request or accept payments under the Insurance Policies in accordance with the following terms and conditions:

a. The Parties and their attorneys, with express reservation of all rights, arguments, or claims under the Insurance Policies, will not seek or accept

reimbursement from the Insurance Policies during the Forbearance Period for legal fees and expenses that are unpaid as of the date of this Agreement, or otherwise accrued during the Forbearance Period, except with regard to the following amounts ("Permitted Draws"), or as otherwise allowed in this Agreement:

i. An amount not exceeding THREE HUNDRED THOUSAND DOLLARS ($300,000) from the Allied World Insurance Company (Side A) Policy (Policy Number 0310-3481) listed under "Tower 1 (D&O)" on Exhibit A of this Agreement;

ii. An amount not exceeding FIVE HUNDRED THOUSAND DOLLARS ($500,000) from the Allianz Global Risks US Insurance Company Policy (Policy Number USF00298219) and subsequent Insurance Policies listed therewith under "Tower 2 (D&O)" on Exhibit A of this Agreement; and

iii. An amount not exceeding such amount necessary to ensure a minimum remaining balance of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS ($3,500,000) from the Travelers Casualty and Surety Co. of America Policy (Policy Number 106601622) listed under "Tower 3 (E&O)" on Exhibit A of this Agreement; provided that the Parties further agree that the Permitted Draws may not come from any other Insurance Policy listed under "Tower 3 (E&O)" on Exhibit A of this Agreement.

b. The Parties agree that the Permitted Draws from the Allied World Insurance Company (Side A) Policy are reserved for fees and expenses that may accrue and become due and owing for services rendered in connection with the mediation of the Preserved Claims with the Liquidating Trust (the "Mediation Fees and Expenses").

c. The Parties agree that the Permitted Draws from the Allianz Global Risks US Insurance Company Policy are reserved for Mediation Fees and Expenses.

d. The Parties agree that the Permitted Draws from the Travelers Casualty and Surety Co. of America Policy are reserved for unpaid legal fees and expenses as of the date of this Agreement and for Mediation Fees and Expenses; provided that $500,000 of the Permitted Draws from the Travelers Casualty and Surety Co. of America Policy will only be used for Mediation Fees and Expenses.

e. The Parties further agree that any remaining balance from the Starr Indemnity & Liability Company Policy after the allocation described in Paragraph 2, are reserved for unpaid legal fees as well as Mediation Fees and Expenses.

f. The Parties and their attorneys agree to work in good faith to determine the appropriate allocation of insurance proceeds for reimbursement of legal fees

and expenses among counsel.

4. Agreement to Mediate. The Insured Parties agree to mediate the dispute over the Preserved Claims with the Liquidating Trust, with such mediation expected to be completed by no later than June 30, 2022, and with a mediator jointly selected by the Liquidating Trust and the Insured Parties (the "Mediator"). The Insured Parties agree to participate in a cost effective, streamlined mediation in good faith. The Insured Parties further agree to work in good faith to have the insurance companies, as listed on Exhibit A of this Agreement, participate in the Mediation.

5. Forbearance Period. The forbearance period shall start upon execution of this Agreement and shall last until the earlier of: (a) five (5) business days after payment of insurance proceeds to the Liquidating Trust to consummate a settlement reached with the Liquidating Trust resolving its alleged Preserved Claims, (b) if the Settlement Agreement is voided or terminated for any reason, the date of such voiding or termination, and (c) June 30, 2022 (the "Forbearance Period"). The Parties may extend the Forbearance Period with the written consent of all the Parties. Nothing in this Agreement shall constitute an agreement by any of the Parties to forbear beyond the Forbearance Period.

6. Time Is of the Essence. Time is of the essence in this Agreement.

7. Caption and Titles. The captions and titles contained in this Agreement are inserted herein only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

8. Construction of Agreement. Each of the Parties has read and agreed to the terms of the Agreement after consulting with counsel, and the language of this Agreement shall, therefore, not be presumptively construed in favor of, or to the detriment of, any of the other Parties.

9. Governing Law and Forum. This Agreement shall be construed under, governed by, and enforced in all respects, including interpretation, according to, the substantive laws of the State of New York without regard to New York's choice-of-law provisions. In the event any Party seeks to enforce this Agreement or assert a claim for breach thereof, each of the Parties hereby expressly consents to the exclusive jurisdiction of federal and state courts sitting in New York, New York, to enforce the terms of this Agreement and to remedy any violation thereof, and the Parties also consent to personal jurisdiction in such courts and waive any objection based on personal jurisdiction grounds or the doctrine of *forum non conveniens*.

10. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective agents, attorneys, executors, guardians, companies and affiliates, partners, members, managers, officers, employees, heirs, successors, and assigns.

11. Relationship of Parties. Nothing in this Agreement shall be deemed or construed to constitute or create any agency, partnership, or affiliation agreement among or between any of the Parties; no Party shall have any power to obligate or bind any other Party in any manner whatsoever.

12. Third-Party Beneficiaries. The Liquidating Trust and the Liquidating Trustee are third-party beneficiaries of this Agreement.

13. Purpose and Effect of Agreement. Nothing contained herein shall be deemed or construed to be an admission or acknowledgment of liability.

14. Waiver. No waiver by any Party of a breach or a default hereunder shall be deemed a waiver of a subsequent breach or default of a like or similar nature.

15. Severability. If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause, or provision and such invalid term, clause, or provision shall be deemed to be severed from the Agreement.

16. Confidentiality. The Parties agree to keep the Settlement Agreement confidential and not to disclose documents and communication related to the Settlement Agreement, except: (i) to their respective attorneys, professionals, agents and accountants; (ii) to any government agency or regulatory authority and their employees and agents; (iii) to the insurance carriers insuring the Insurance Policies; and (iv) as required by law or legal process. If a Party is required by law or legal process to disclose the Settlement Agreement, such Party will, if practicable, give the other Parties prompt notice of such request so that any other Party may seek an appropriate protective order at its sole cost and expense. In the absence of a protective order, the Party required by law or legal process to disclose the Settlement Agreement may do so, provided that it has asked the person or entity requesting the Settlement Agreement to treat it as confidential. Notwithstanding the foregoing, the Parties may disclose the Settlement Agreement or the terms thereof in connection with any litigation concerning its subject matter.

17. Information Sharing. The Parties agree that this Agreement will be shared with the insurance carriers, or their designated representatives, as listed on Exhibit A of this Agreement.

18. Counterpart Signature Pages. This Agreement may be executed in one or more counterparts with facsimile or scanned signatures being deemed original, any of which need not contain the signatures of all Parties but all signed counterparts taken together will constitute one and the same agreement.

19. Expiration of Agreement. Notwithstanding any other provision herein, this Agreement expires June 30, 2022 absent prior written consent of all the Parties.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

SETH TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR SETH TAUBE

_____

By:_____

Title:_____

Date:_____

JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

SAMUEL ANDERSON

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR SAMUEL ANDERSON

_____

By:_____

Title:_____

Date:_____

JOHN FREDERICKS

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR JOHN FREDERICKS

_____

By:_____

Title:_____

Date:_____

EVERSHEDS SUTHERLAND (US) LLP

_____

By:_____

Title:_____

Date:_____

SCHEDULE I
DEFINED TERMS

"*Cause of Action*" or "*Causes of Action*" means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise against any party, including current and former directors, officers, and employees of the Medley Entities. Causes of Action also include, but are not limited to: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest claims or interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

"*Defense Expenses*" means the necessary costs, charges, expenses, and fees, including attorney's, expert's, mediator's, and arbitrator's fees, incurred in defending a claim, and the premium for appeal, attachment, or similar bond.

"*Insured Person*" means a natural person who was a director, officer, or employee, or the functional equivalent of the foregoing, of the Medley Entities.

"*Loss*" means (i) Defense Expenses; and (ii) damages, judgments, settlements, and prejudgment and postjudgment interest that an Insured Person is legally obligated to pay as a result of a Cause of Action or written demand for monetary damages.

"*Management Services*" means acts by an Insured Person solely in his or her capacity as a director, officer, or employee of the Medley Entities.

"*Wrongful Act*" means (1) an error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed or attempted by an Insured Person performing, or failing to perform, Management Services; or (2) a matter claimed against an Insured Person solely by reason of his or her service in such capacity.

SCHEDULE II – INSURANCE POLICIES*

Tower 1 (D&O)		
Insurer	Policy Number	Policy Limits**
Berkshire Hathaway Specialty Insurance Company	47-EPF-301833-03	$5MM (primary)
Starr Indemnity & Liability Company	1000059851171	$5MM (first excess)
Allied World Insurance Company (Side A)	0310-3481	$5MM (second excess)

Tower 2 (D&O)		
Insurer	Policy Number	Policy Limits**
Allianz Global Risks US Insurance Company	USF00298219	$5MM (primary)
Euclid Financial Institution Underwriters, LLC (Certain Underwriters at Lloyd's of London; Associated Industries Insurance Company)	EFI1203059-00	$2.5MM (first excess)
Old Republic Professional Liability, Inc.	ORPRO 44299	$2.5MM (second excess)

Tower 3 (E&O)		
Insurer	Policy Number	Policy Limits**
Travelers Casualty and Surety Co. of America	106601622	$5MM (primary)
Nationwide Mutual Insurance Company	XMF1702465	$5MM (first excess)

(Freedom Specialty Insurance Company)		
Sompo International (Endurance American Insurance Company)	FIX10007675802	$5MM (second excess)
Allianz Global Risks US Insurance Company	DOX2010224	$3MM (third excess)

*Based on information and belief.

**Amounts do not reflect remaining amounts, ability to access, or coverage.

EXHIBIT B

FORM OF CONFIRMATION LETTER

This Confirmation Letter by the Liquidating Trustee is made as of [, 2022] by Saccullo Business Consulting, as liquidating trustee (the "Liquidating Trustee") of the Medley LLC Liquidating Trust (the "Liquidating Trust"), pursuant to the Settlement Agreement and Release dated as of March [_], 2022 (as amended, supplemented or otherwise modified prior to the date hereof, the "Agreement") by and among Medley Management, Inc., a Delaware corporation, Brook Taube Trust, and Brook Taube and Seth Taube (collectively, the "Taube Parties"), and the Liquidating Trust.

Pursuant to section 3.1 of the Agreement, the Liquidating Trustee hereby represents and confirms as follows:

1. The Liquidating Trust will be able to distribute [XX DOLLARS ($XX)] (the "Class 3 Payment"), from the escrow account established with Ankura Trust Company, LLC (the "Escrow Agent") by Brook Taube and Seth Taube, to U.S. Bank National Association, in its capacity as trustee under the Notes Indenture[4] (the "Notes Trustee"), within ten (10) business days of receiving the Class 3 Payment from the Escrow Agent and those funds becoming available for transfer.

2. The Liquidating Trust will satisfy the Charging Lien[5] prior to or contemporaneously with the Liquidating Trust's distribution of the Class 3 Payment to the Notes Trustee.

3. The Charging Lien will be satisfied from funds other than the Class 3 Payment.

4. The Notes Trustee has confirmed to the Liquidating Trustee that, other than the $191,054.65 owed pursuant to the Charging Lien, no money is owed to the Notes Trustee under the Notes Indenture or otherwise that would entitle the Notes Trustee to deduct funds from the Class 3 Payment.

5. It is the Liquidating Trustee's intent that the Noteholders will be the ultimate recipients of the Class 3 Payment, with no deductions thereto.

[4] The "Notes Indenture" is that certain indenture agreement (as may be amended, restated, supplemented, or otherwise modified from time to time) dated August 9, 2016, between the Debtor, as issuer, and U.S. Bank National Association, as trustee, that governs (1) those senior unsecured notes with a maturity date of January 20, 2024 issued by the Debtor and (2) those senior unsecured notes with a maturity date of August 15, 2026 issued by the Debtor.

[5] The "Charging Lien" is the lien or priority of payment in the amount of $191,054.65 to which the Notes Trustee is entitled under the Notes Indenture against any distributions made from the Liquidating Trust to the Notes Trustee.

MEDLEY LLC LIQUIDATING TRUST

By: Saccullo Business Consulting, LLC, as Liquidating Trustee
Name:
Title:

EXHIBIT C

FORM OF LIQUIDATING TRUSTEE CERTIFICATION

This Liquidating Trustee Certification is made as of [, 2022] by Saccullo Business Consulting, as liquidating trustee (the "Liquidating Trustee") of the Medley LLC Liquidating Trust (the "Liquidating Trust"), pursuant to the Settlement Agreement and Release (the "Agreement") by and among Medley Management, Inc., a Delaware corporation, Brook Taube Trust, and Brook Taube and Seth Taube, and the Liquidating Trust.

Pursuant to section 3.1 of the Agreement, the Liquidating Trustee hereby represents and certifies as follows:

1. On [, 2022], the Liquidating Trust transferred [$XX] (the "Class 3 Distribution"), which it received from the escrow account established with Ankura Trust Company, LLC by Brook Taube and Seth Taube, to U.S. Bank, N.A., as indenture trustee (the "Notes Trustee"). In addition to the Class 3 Distribution and prior to or contemporaneously with making the Class 3 Distribution to the Notes Trustee, the Liquidating Trust transferred an additional $191,054.65 to the Notes Trustee in satisfaction of the Notes Trustee's lien or priority of payment to which it was entitled under that certain indenture agreement dated August 9, 2016 between the Notes Trustee and Medley LLC. Attached hereto as "Exhibit 1" is a copy of the federal reference number for the Liquidating Trust's wire transfer(s) to the Notes Trustee.

2. On [, 2022], the Notes Trustee transferred the Class 3 Distribution to the Depository Trust Company. Attached hereto as "Exhibit 2" is a copy of the federal reference number for the Notes Trustee's wire transfer(s) to the Depository Trust Company.

MEDLEY LLC LIQUIDATING TRUST

By: Saccullo Business Consulting, LLC, as Liquidating Trustee
Name:
Title:

Exhibit 3

Settlement Communication Under Federal Rule of Evidence 408

AGREEMENT

This Agreement is being entered into by and between Eversheds Sutherland (US) LLP ("Eversheds") and Saccullo Business Consulting, LLC, as liquidating trustee (the "Liquidating Trustee" and together with Eversheds, the "Parties") for the Medley LLC Liquidating Trust (the "Liquidating Trust") established under the Modified Third Amended Combined Disclosure Statement and Chapter 11 Plan of Medley LLC dated as of October 14, 2021 (the "Medley Plan"), which was confirmed on October 18, 2021 by Order of the United States Bankruptcy Court for the District of Delaware (the "Court") in the chapter 11 case of Medley LLC (the "Debtor"), case number 21-10526.

WHEREAS, Eversheds was retained as Special Counsel to the Debtor pursuant to an order of the Court dated May 17, 2021 [Dkt. No. 167];

WHEREAS, the Court entered the Amended Omnibus Order Awarding Final Fee Applications on January 26, 2022 [Dkt. No. 569] (the "Final Fee Order") awarding Eversheds fees and expenses in the amount of $2,080,055.19 (the "Eversheds Administrative Claim"), which amount is payable from assets of the Liquidating Trust to the extent (i) the applicable insurance carriers fail to pay the Eversheds Administrative Claim, and (ii) the Liquidating Trust has sufficient funds to pay such outstanding amounts;

WHEREAS, as part of the Medley Plan, holders of class 3 claims ("Class 3 Claims") and class 4 claims ("Class 4 Claims") are general unsecured claims that share *pari passu* on distributions from the Liquidating Trust;

WHEREAS, the Liquidating Trustee is negotiating a settlement (the "Chapter 5 Settlement") of the Liquidating Trust's causes of action that are not covered by insurance against Seth Taube, Brook Taube and Medley Management, Inc. (the "Settling Defendants") under which they will make a: (i) cash payment (the "Cash Payment"); and (ii) up to a $10,000,000 payment from an established escrow reserve provided that those funds are distributable to Class 3 Claims (the "Class 3 Distribution", and collectively with the Cash Payment, the "Settlement Payment");

WHEREAS, under the Medley Plan, the Class 3 Distribution would require the Liquidating Trustee to remit a *pro rata* distribution to holders of allowed Class 4 Claims (the "Class 4 Distribution") and reserve an amount for disputed Class 4 Claims (the "Class 4 Reserve");

WHEREAS, the Liquidating Trustee plans to use some, or all, of the Settlement Payment (as well as other assets of the Liquidating Trust, if needed) to make the Class 3 and Class 4 Distribution (collectively, the "Distributions"), to pay the necessary fees and expenses related to the Distributions, and to create the Class 4 Reserve;

WHEREAS, the forbearance and waiver of rights by Eversheds set forth in this Agreement are necessary to permit the Liquidating Trust to receive the maximum benefit of the negotiated agreement by and between the Settling Defendants and the Liquidating Trust, and to maximize the distribution to all creditors in this case by avoiding unnecessary litigation and the incumbent

dissipation of assets and insurance proceeds that may otherwise be available for distribution to creditors;

WHEREAS, for these reasons, the terms and conditions of this Agreement are integral and inextricable to the Chapter 5 Settlement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is mutually acknowledged, the Parties agree as follows:

1. Eversheds hereby waives any right it may have, or purport to have, under the Medley Plan or Final Fee Order: (i) to receive any payment on the Eversheds Administrative Claim until the Trust has received sufficient funds to: (1) make the Distributions, including, without limitation, the funds required to pay any fees and expenses associated with such Distributions (including fees of U.S. Bank, N.A., as indenture trustee, and the Office of the United States Trustee), (2) establish the Class 4 Reserve, (3) pay any costs, expenses, fees, claims, or other payment rights that are senior to the Eversheds Administrative Claim under the Medley Plan; and (4) satisfy, and or reserve for any claims that are, as of the date of this Agreement, entitled to *pari passu* treatment to the Eversheds Administrative Claim and the Eversheds Administrative Claim; and (ii) to compel the Liquidating Trustee to use the funds referenced in subpart (i) of this paragraph to satisfy the Eversheds Administrative Claim.

2. Notwithstanding anything in the Medley Plan or Final Fee Order, Eversheds agrees that (i) Eversheds shall first seek payment for the Eversheds Administrative Claim from applicable insurance carriers and in accordance with that certain forbearance agreement executed herewith; and (ii) if the applicable insurance carriers fail to pay the Eversheds Administrative Claim in a reasonable time not to exceed December I, 2022, then Eversheds may seek payment from assets of the Liquidating Trust for what remains owed.

3. Miscellaneous:

a. Amendments. No modification of any term of this Agreement shall be effective unless made in writing and signed by the Parties. Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or of future compliance therewith and such provisions shall remain in full force and effect.

b. Severability. If any provision is found to be invalid, such provision shall not invalidate the entire Agreement, but the Agreement shall be construed as not containing the particular provision held to be invalid, and the rights and obligations of the Parties shall be construed accordingly.

c. Counterpart Signature Pages. This Agreement may be executed by e-mail in one or more counterparts which taken together will constitute one agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

EVERSHEDS SUTHERLAND (US) LLP

By: Bruce M. Bettigole
Title: Partner
Date: March 9, 2022

SACCULLO BUSINESS CONSULTING, LLC, as Liquidating Trustee

By:
Title:
Date:

Exhibit 4

EXECUTION VERSION

FORBEARANCE AGREEMENT AND
AGREEMENT TO MEDIATE

This Forbearance Agreement and Agreement to Mediate (the "Agreement") is entered into and effective as of March 23, 2022, and with respect to each party hereto, as of the date that such party executes this Agreement, (the "Effective Date"), by and among Medley Management, Inc., a Delaware corporation, and its undersigned counsel ("Medley"), Brook Taube, Seth Taube, Jeffrey Tonkel, Richard Allorto, Samuel Anderson and John Fredericks, and their undersigned counsel (collectively, the "Medley D&Os"), and Eversheds Sutherland (US) LLP ("Eversheds"), in its capacity as counsel for, *inter alia*, Medley LLC and Medley Management, Inc. Medley, the Medley D&Os, and Eversheds are each referred to individually herein as a "Party" and collectively as the "Parties." Capitalized terms that are used herein but not defined shall have the meanings given to them in Schedule I attached hereto.

I. RECITALS

A. WHEREAS, Medley LLC is a privately-held company that, on March 7, 2021, filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, Case No. 21-10526, in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

B. WHEREAS, Medley, its affiliates, and subsidiaries (collectively, the "Medley Entities"), and its officers and directors were insured under three towers of insurance policies, as set forth on Exhibit A (collectively, the "Insurance Policies");

C. WHEREAS, the Medley D&Os served as directors or officers of the Medley Entities (together with the Medley Entities, the "Insured Parties");

D. WHEREAS, the Medley LLC Liquidating Trust (the "Liquidating Trust") is releasing Medley, the Medley D&Os, and certain other individuals and entities from the alleged Causes of Action that the Liquidating Trust has against one or more of the Insured Parties, except for the Preserved Claims (defined below), (the "Releases") in connection with that certain Settlement Agreement and Release, dated on or about the date hereof among Medley, Brook Taube Trust, Brook Taube, Seth Taube, and the Liquidating Trust (the "Settlement Agreement");

E. WHEREAS, in connection with that Settlement Agreement, Saccullo Business Consulting, LLC, as liquidating trustee (the "Liquidating Trustee") for the Liquidating Trust, has agreed that the Liquidating Trust's monetary demand in connection with the mediation of certain alleged Causes of Action for damages against one or more of the Insured Parties for Wrongful Acts which caused Loss for which the Trustee contends one or more of the Insurance Policies provide coverage pursuant to the terms of the Insurance Policies (the "Preserved Claims") will be not more than the remaining coverage limits for each of the Insurance Policies, thus leaving an amount of insurance limits available under the Insurance Policies for other purposes, including payment of defense fees;

F. WHEREAS, the Liquidating Trust has agreed to forbear from bringing any claims or causes of action against the Parties prior to the mediation contemplated in Section 4 below;

G. WHEREAS, the Liquidating Trust has asked Medley and the Medley D&Os to forbear from accepting and seeking the reimbursement of fees and expenses allegedly incurred or owed, except for the limitation on such forbearance as set forth in this Agreement (the "Forbearance");

H. WHEREAS, the Parties acknowledge that all rights, arguments, and claims with respect to the Parties' legal fees and expenses are reserved according to the terms and conditions memorialized in this Agreement;

I. WHEREAS, the Parties acknowledge that the companies that issued the Insurance Policies have reserved all rights with respect to the availability and extent of coverage afforded under the Insurance Policies in connection with the Preserved Claims.

J. WHEREAS, this Agreement is conditioned upon Medley, Brook Taube and Seth Taube, and the Securities and Exchange Commission ("SEC") agreeing to a settlement regarding the SEC's investigation entitled *In the Matter of Medley Capital Corporation*, File No. NY-10045 and that settlement's final approval by the SEC (the "SEC Agreement"); if the SEC Agreement is not executed, this Agreement and the Forbearance hereunder shall be null and void.

II. AGREEMENT

For good and valuable consideration, receipt of which is mutually acknowledged, the Parties, intending to be legally bound by this Agreement, agree as follows:

1. Adoption of Recitals; Conditions Precedent. The Parties agree that this Agreement is conditioned upon execution and delivery of the Settlement Agreement.

2. Agreement to Allocate and Seek Payment of Certain Funds. The Parties agree to the prior allocation among counsel of the remaining available funds from the Starr Indemnity & Liability Company Policy (Policy Number 1000059851171), as listed on Exhibit A of this Agreement, for legal and advisory fees and expenses. The Parties further agree that Eversheds and Wilmer Cutler Pickering Hale and Dorr LLP ("Wilmer") can seek payment of those funds, according to the agreed-upon allocation, upon the SEC Agreement's execution. According to the agreed-upon allocation, Eversheds can seek payment of $644,143, and Wilmer can seek payment of $364,408, with each of Eversheds and Wilmer reserving its rights to seek payment of such amounts even if the SEC Agreement is not executed.

3. Agreement to Forbear. Except as provided in Paragraph 2 of this Agreement, during the Forbearance Period (defined below) the Parties agree to not request or accept payments under the Insurance Policies in accordance with the following terms and conditions:

a. The Parties and their attorneys, with express reservation of all rights, arguments, or claims under the Insurance Policies, will not seek or accept reimbursement from the Insurance Policies during the Forbearance Period for legal fees and expenses that are unpaid as of the date of this Agreement, or otherwise accrued during the Forbearance Period, except with regard to the following amounts ("Permitted Draws"), or as otherwise allowed in this Agreement:

i. An amount not exceeding THREE HUNDRED THOUSAND DOLLARS ($300,000) from the Allied World Insurance Company (Side A) Policy (Policy Number 0310-3481) listed under "Tower 1 (D&O)" on Exhibit A of this Agreement;

ii. An amount not exceeding FIVE HUNDRED THOUSAND DOLLARS ($500,000) from the Allianz Global Risks US Insurance Company Policy (Policy Number USF00298219) and subsequent Insurance Policies listed therewith under "Tower 2 (D&O)" on Exhibit A of this Agreement; and

iii. An amount not exceeding such amount necessary to ensure a minimum remaining balance of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS ($3,500,000) from the Travelers Casualty and Surety Co. of America Policy (Policy Number 106601622) listed under "Tower 3 (E&O)" on Exhibit A of this Agreement; provided that the Parties further agree that the Permitted Draws may not come from any other Insurance Policy listed under "Tower 3 (E&O)" on Exhibit A of this Agreement.

b. The Parties agree that the Permitted Draws from the Allied World Insurance Company (Side A) Policy are reserved for fees and expenses that may accrue and become due and owing for services rendered in connection with the mediation of the Preserved Claims with the Liquidating Trust (the "Mediation Fees and Expenses").

c. The Parties agree that the Permitted Draws from the Allianz Global Risks US Insurance Company Policy are reserved for Mediation Fees and Expenses.

d. The Parties agree that the Permitted Draws from the Travelers Casualty and Surety Co. of America Policy are reserved for unpaid legal fees and expenses as of the date of this Agreement and for Mediation Fees and Expenses; provided that $500,000 of the Permitted Draws from the Travelers Casualty and Surety Co. of America Policy will only be used for Mediation Fees and Expenses.

e. The Parties further agree that any remaining balance from the Starr Indemnity & Liability Company Policy after the allocation described in Paragraph 2, are reserved for unpaid legal fees as well as Mediation Fees and Expenses.

f. The Parties and their attorneys agree to work in good faith to determine the appropriate allocation of insurance proceeds for reimbursement of legal fees and expenses among counsel.

4. Agreement to Mediate. The Insured Parties agree to mediate the dispute over the Preserved Claims with the Liquidating Trust, with such mediation expected to be completed by no

later than June 30, 2022, and with a mediator jointly selected by the Liquidating Trust and the Insured Parties (the "Mediator"). The Insured Parties agree to participate in a cost effective, streamlined mediation in good faith. The Insured Parties further agree to work in good faith to have the insurance companies, as listed on Exhibit A of this Agreement, participate in the Mediation.

5. Forbearance Period. The forbearance period shall start upon execution of this Agreement and shall last until the earlier of: (a) five (5) business days after payment of insurance proceeds to the Liquidating Trust to consummate a settlement reached with the Liquidating Trust resolving its alleged Preserved Claims, (b) if the Settlement Agreement is voided or terminated for any reason, the date of such voiding or termination, and (c) June 30, 2022 (the "Forbearance Period"). The Parties may extend the Forbearance Period with the written consent of all the Parties. Nothing in this Agreement shall constitute an agreement by any of the Parties to forbear beyond the Forbearance Period.

6. Time Is of the Essence. Time is of the essence in this Agreement.

7. Caption and Titles. The captions and titles contained in this Agreement are inserted herein only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

8. Construction of Agreement. Each of the Parties has read and agreed to the terms of the Agreement after consulting with counsel, and the language of this Agreement shall, therefore, not be presumptively construed in favor of, or to the detriment of, any of the other Parties.

9. Governing Law and Forum. This Agreement shall be construed under, governed by, and enforced in all respects, including interpretation, according to, the substantive laws of the State of New York without regard to New York's choice-of-law provisions. In the event any Party seeks to enforce this Agreement or assert a claim for breach thereof, each of the Parties hereby expressly consents to the exclusive jurisdiction of federal and state courts sitting in New York, New York, to enforce the terms of this Agreement and to remedy any violation thereof, and the Parties also consent to personal jurisdiction in such courts and waive any objection based on personal jurisdiction grounds or the doctrine of *forum non conveniens*.

10. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the Parties, their respective agents, attorneys, executors, guardians, companies and affiliates, partners, members, managers, officers, employees, heirs, successors, and assigns.

11. Relationship of Parties. Nothing in this Agreement shall be deemed or construed to constitute or create any agency, partnership, or affiliation agreement among or between any of the Parties; no Party shall have any power to obligate or bind any other Party in any manner whatsoever.

12. Third-Party Beneficiaries. The Liquidating Trust and the Liquidating Trustee are third-party beneficiaries of this Agreement.

13. Purpose and Effect of Agreement. Nothing contained herein shall be deemed or construed to be an admission or acknowledgment of liability.

14. Waiver. No waiver by any Party of a breach or a default hereunder shall be deemed a waiver of a subsequent breach or default of a like or similar nature.

15. Severability. If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause, or provision and such invalid term, clause, or provision shall be deemed to be severed from the Agreement.

16. Confidentiality. The Parties agree to keep the Settlement Agreement confidential and not to disclose documents and communication related to the Settlement Agreement, except: (i) to their respective attorneys, professionals, agents and accountants; (ii) to any government agency or regulatory authority and their employees and agents; (iii) to the insurance carriers insuring the Insurance Policies; and (iv) as required by law or legal process. If a Party is required by law or legal process to disclose the Settlement Agreement, such Party will, if practicable, give the other Parties prompt notice of such request so that any other Party may seek an appropriate protective order at its sole cost and expense. In the absence of a protective order, the Party required by law or legal process to disclose the Settlement Agreement may do so, provided that it has asked the person or entity requesting the Settlement Agreement to treat it as confidential. Notwithstanding the foregoing, the Parties may disclose the Settlement Agreement or the terms thereof in connection with any litigation concerning its subject matter.

17. Information Sharing. The Parties agree that this Agreement will be shared with the insurance carriers, or their designated representatives, as listed on Exhibit A of this Agreement.

18. Counterpart Signature Pages. This Agreement may be executed in one or more counterparts with facsimile or scanned signatures being deemed original, any of which need not contain the signatures of all Parties but all signed counterparts taken together will constitute one and the same agreement.

19. Expiration of Agreement. Notwithstanding any other provision herein, this Agreement expires June 30, 2022 absent prior written consent of all the Parties.

[*Signature Page Follows*]

EXECUTION VERSION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

By: DocuSigned by: Brook Taube 97FC428FD9B64F3...

Title:

Date: 3/24/2022

BROOK TAUBE

By: DocuSigned by: Brook Taube 97FC428FD9B64F3...

Title:

Date: 3/23/2022

SETH TAUBE

By: DocuSigned by: Seth Taube 89EA0E1756F5419...

Title:

Date: 3/23/2022

JEFFREY TONKEL

By:

Title:

Date:

RICHARD ALLORTO

By:

Title:

Date:

SAMUEL ANDERSON

By: DocuSigned by: Samuel Anderson 0DA077566E7A42D...

Title:

Date: 3/23/2022

COUNSEL FOR MEDLEY MANAGEMENT INC.

By:

Title:

Date:

COUNSEL FOR BROOK TAUBE

By: DocuSigned by: William McLucas 7E1980AC7663407...

Title:

Date: 3/23/2022

COUNSEL FOR SETH TAUBE

By: DocuSigned by: William McLucas 7E1980AC7663407...

Title:

Date: 3/23/2022

COUNSEL FOR JEFFREY TONKEL

By:

Title:

Date:

COUNSEL FOR RICHARD ALLORTO

By:

Title:

Date:

COUNSEL FOR SAMUEL ANDERSON

By: DocuSigned by: 12914A2214FD41B...

Title:

Date: 3/23/2022

EXECUTION VERSION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

SETH TAUBE

_____

By:_____

Title:_____

Date:_____

JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

SAMUEL ANDERSON

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR BROOK TAUBE

SCHULTE ROTH & ZABEL LLP

By: Douglas Koff

Title: Partner

Date: 3/23/22

COUNSEL FOR SETH TAUBE

SCHULTE ROTH & ZABEL LLP

By: Douglas Koff

Title: Partner

Date: 3/23/22

COUNSEL FOR JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR SAMUEL ANDERSON

_____

By:_____

Title:_____

Date:_____

For Settlement Purposes Only
Inadmissible in Any Proceeding
(under Federal Rule of Evidence 408 or similar Rule)
DRAFT as of 3/11/22

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR MEDLEY MANAGEMENT INC.

N. Adele Hogan

By: N. Adele Hogan

Title: Partner, Lucosky Brookman, LLP

Date: 3/22/22

BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

SETH TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR SETH TAUBE

_____

By:_____

Title:_____

Date:_____

JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

SAMUEL ANDERSON

_____

By:_____

Title:_____

COUNSEL FOR SAMUEL ANDERSON

_____

By:_____

Title:_____

EXECUTION VERSION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

By: _____
Title: _____
Date: _____

BROOK TAUBE

By: _____
Title: _____
Date: _____

SETH TAUBE

By: _____
Title: _____
Date: _____

JEFFREY TONKEL

By: _____
Title: _____
Date: 3/23/22

RICHARD ALLORTO

By: _____
Title: _____
Date: _____

SAMUEL ANDERSON

By: _____
Title: _____
Date: _____

COUNSEL FOR MEDLEY MANAGEMENT INC.

By: _____
Title: _____
Date: _____

COUNSEL FOR BROOK TAUBE

By: _____
Title: _____
Date: _____

COUNSEL FOR SETH TAUBE

By: _____
Title: _____
Date: _____

COUNSEL FOR JEFFREY TONKEL

By: Samuel Anderson
Title: _____
Date: March 23, 2022

COUNSEL FOR RICHARD ALLORTO

By: _____
Title: _____
Date: _____

COUNSEL FOR SAMUEL ANDERSON

By: _____
Title: _____
Date: _____

EXECUTION VERSION

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by themselves or their duly authorized representatives on the respective dates set forth below.

MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

SETH TAUBE

_____

By:_____

Title:_____

Date:_____

JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

RICHARD ALLORTO

R C

By: Richard Allorto

Title: Chief Financial Officer

Date: 3/23/2022

~~SAMUEL ANDERSON~~ RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR MEDLEY MANAGEMENT INC.

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR BROOK TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR SETH TAUBE

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR JEFFREY TONKEL

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR RICHARD ALLORTO

Rory C. F

By: Rory C. Fleck

Title: Counsel

Date: 3/28/2022

COUNSEL FOR ~~SAMUEL ANDERSON~~ RICHARD ALLORTO

_____

By:_____

Title:_____

Date:_____

EXECUTION VERSION

JOHN FREDERICKS

COUNSEL FOR JOHN FREDERICKS
McDonough PC
By: Stephen D. Cummins
Title: Shareholder
Date: 3/22/2022

EVERSHEDS SUTHERLAND (US) LLP

By:
Title:
Date:

EXECUTION VERSION

JOHN FREDERICKS

_____

By:_____

Title:_____

Date:_____

COUNSEL FOR JOHN FREDERICKS

_____

By:_____

Title:_____

Date:_____

EVERSHEDS SUTHERLAND (US) LLP

_____

By:___Bruce M. Bettigole_____

Title:__Partner_____

Date:__3/23/2022_____

SCHEDULE I
DEFINED TERMS

"*Cause of Action*" or "*Causes of Action*" means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise against any party, including current and former directors, officers, and employees of the Medley Entities. Causes of Action also include, but are not limited to: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest claims or interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

"*Defense Expenses*" means the necessary costs, charges, expenses, and fees, including attorney's, expert's, mediator's, and arbitrator's fees, incurred in defending a claim, and the premium for appeal, attachment, or similar bond.

"*Insured Person*" means a natural person who was a director, officer, or employee, or the functional equivalent of the foregoing, of the Medley Entities.

"*Loss*" means (i) Defense Expenses; and (ii) damages, judgments, settlements, and prejudgment and postjudgment interest that an Insured Person is legally obligated to pay as a result of a Cause of Action or written demand for monetary damages.

"*Management Services*" means acts by an Insured Person solely in his or her capacity as a director, officer, or employee of the Medley Entities.

"*Wrongful Act*" means (1) an error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed or attempted by an Insured Person performing, or failing to perform, Management Services; or (2) a matter claimed against an Insured Person solely by reason of his or her service in such capacity.

EXECUTION VERSION

EXHIBIT A – INSURANCE POLICIES*

Tower 1 (D&O)		
Insurer	Policy Number	Policy Limits**
Berkshire Hathaway Specialty Insurance Company	47-EPF-301833-03	$5MM (primary)
Starr Indemnity & Liability Company	1000059851171	$5MM (first excess)
Allied World Insurance Company (Side A)	0310-3481	$5MM (second excess)

Tower 2 (D&O)		
Insurer	Policy Number	Policy Limits**
Allianz Global Risks US Insurance Company	USF00298219	$5MM (primary)
Euclid Financial Institution Underwriters, LLC (Certain Underwriters at Lloyd's of London; Associated Industries Insurance Company)	EFI1203059-00	$2.5MM (first excess)
Old Republic Professional Liability, Inc.	ORPRO 44299	$2.5MM (second excess)

Tower 3 (E&O)		
Insurer	Policy Number	Policy Limits**
Travelers Casualty and Surety Co. of America	106601622	$5MM (primary)
Nationwide Mutual Insurance Company	XMF1702465	$5MM (first excess)

(Freedom Specialty Insurance Company)		
Sompo International (Endurance American Insurance Company)	FIX10007675802	$5MM (second excess)
Allianz Global Risks US Insurance Company	DOX2010224	$3MM (third excess)

*Based on information and belief.

**Amounts do not reflect remaining amounts, ability to access, or coverage.