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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11
12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 vs.

15 DIVERSIFIED LENDING GROUP,
16 INC.; APPLIED EQUITIES, INC.; AND
BRUCE FRIEDMAN,

17 Defendants,

18 and

19 TINA M. PLACOURAKIS,

20 Relief Defendant.
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Case No. CV 09-01533-R (SSx)

**RECEIVER'S EX PARTE
APPLICATION TO APPROVE
SETTLEMENT AGREEMENT
BETWEEN RECEIVER AND
WULFF TRUST;
DECLARATIONS OF DAVID A.
GILL AND GILBERT MIKALIAN**

[No hearing requested]

22 **PLEASE TAKE NOTICE THAT** David A. Gill, the Permanent Receiver
23 ("Receiver") of Diversified Lending Group, Inc. ("DLG"), and Applied Equities,
24 Inc., and their subsidiaries and affiliates, including but not limited to MMHIM, Inc.,
25 DLG International, a Panamanian company, and SunWest Bottlers, LLC, will and
26 hereby moves to the Court for an order granting *Receiver's Ex Parte Application to*
27 *Approve Settlement Agreement Between Receiver and Wulff Trust* ("Application").
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1 The Application requests an order:

2 1. authorizing the Receiver to settle the Dispute, as that term is defined
3 below, with Sandra Smallwood, as successor Trustee ("Smallwood") of the Walter
4 G. Wulff Revocable Trust Dated September 1, 1998 ("Wulff Trust");

5 2. authorizing the Receiver to execute all documents and otherwise take all
6 actions the Receiver deems necessary and appropriate to effectuate the settlement;

7 3. confirming the terms and provisions of the *Settlement Agreement and*
8 *Mutual Limited Release* ("Agreement"), a copy of which is attached to the
9 Declaration of David A. Gill as Exhibit "1;" and

10 4. confirming that the form and manner of notice of the Application
11 provided by the Receiver is appropriate, a copy of the proposed order is attached to
12 the Declaration of David A. Gill as Exhibit "2."

13 The Application is based upon the following: DLG and Smallwood, on behalf
14 of the Wulff Trust, seek to resolve the disputes and claims relating to the Receiver's
15 claims against Wulff Trust regarding the receipt of \$36,073.82 from DLG
16 ("Transfers") and Smallwood disputes these allegations and maintains that the Wulff
17 Trust has insufficient assets to satisfy a judgment if one were obtained against the
18 Wulff Trust in any event ("Dispute"). In order to resolve the Dispute and to avoid
19 costly and lengthy litigation, the Receiver and Smallwood, on behalf of Wulff Trust,
20 have entered into the Agreement. As more fully set out in the Agreement, and
21 subject to Court approval, the Receiver has agreed to accept funds from Wulff Trust
22 in exchange for a release of the Receiver's claims against Wulff Trust related to the
23 Transfers. The Agreement resolves claims with respect to the Dispute between the
24 Receiver and receivership estate, on the one hand, and Wulff Trust, on the other
25 hand. Each party has reserved their rights with respect to any other claims they
26 might have.

27 The Agreement is subject to Court approval, and accordingly, the Receiver
28 seeks approval of this Application and the proposed Agreement described herein.

1 The Application is made on the grounds that the Receiver has determined in
2 his business judgment that the Agreement is fair and equitable and in the best
3 interests of the estate, given the fact that without this Agreement, the receivership
4 estate must otherwise engage in costly and lengthy litigation in order to recover the
5 Transfers. The Agreement allows the Receiver to receive funds in exchange for the
6 elimination of this litigation against Wulff Trust.

7 The Application is based upon this Notice, the Application, the Memorandum
8 of Points and Authorities, the Declarations of David A. Gill and Gilbert Mikalian,
9 and upon such other evidentiary matters as may be considered by the Court.

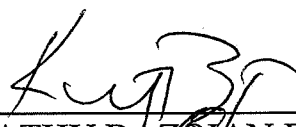
10 **PLEASE TAKE FURTHER NOTICE** that pursuant to the prior order of this
11 Court entered May 4, 2009 ("Omnibus Order"), this notice and Application were
12 served upon the approved Limited Service List and counsel for Smallwood on behalf
13 of Wulff Trust on July 9, 2010, as reflected in the Declaration of Gilbert Mikalian.
14 No opposition has been received.

15 **PLEASE TAKE FURTHER NOTICE** that pursuant to the Omnibus Order
16 this Notice and Application will be served upon the approved Limited Service List.

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Dated: July 12, 2010

DANNING, GILL, DIAMOND & KOLLITZ, LLP

By: 
KATHY BAZOIAN PHELPS
Attorneys for David A. Gill, Receiver

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Walter G. Wulff or the Wulff Trust received net profits of \$36,073.82 from DLG ("Transfers"). The Receiver contends that the transfer of funds were paid as a return on fictitious profits to Mr. Wulff or Wulff Trust. The Receiver, upon learning of the transfer after investigating DLG's financial records, filed a Complaint seeking the return of the Transfers, and Smallwood, on behalf of Wulff Trust, has alleged various defenses ("Dispute"). The parties have now resolved the Dispute and have entered into an agreement, subject to this Court's approval.

II.

RELEVANT FACTS

A. Facts Relating to the Dispute

Between February 15, 2006, and April 30, 2007, Walter G. Wulff or the Wulff Trust received net fictitious profits of \$36,073.82 from DLG ("Transfers"). The summary of the specific payments making up the Transfers is attached as Exhibit A to the Agreement.

On March 2, 2010, the Receiver filed a complaint ("Complaint") against Wulff Trust, among others, to avoid and recover seeking the return of the Transfers in full.¹ As more fully set forth in the Agreement, Sandra Smallwood ("Smallwood"), as successor Trustee of the Walter G. Wulff Revocable Trust Dated September 1, 1998 ("Wulff Trust"), disputes these allegations and maintains that Wulff Trust has insufficient assets to satisfy a judgment in one were obtained against the Wulff Trust in any event ("Dispute").

¹ U.S. District Court case number CV 10-01551-R (SSx), matter name *David A. Gill v. David Miller, et al.*

1 The Receiver and Wulff Trust have agreed to stop further litigation, and now
2 desire and intend to fully and finally settle, resolve and release any and all claims
3 between them with respect to the Dispute upon the terms, covenants and conditions
4 set forth in the Agreement. The Receiver and Wulff Trust do not intend to waive any
5 claims or defenses in connection with any matters aside from the Dispute since the
6 only matter being resolved by the Agreement is the Dispute.

7 **B. Terms of the Agreement**

8 The Receiver and Wulff Trust have agreed to resolve this Dispute by entering
9 into the Agreement.² All of the terms and conditions contained in the Agreement are
10 incorporated herein by this reference, and any reference to the terms and conditions
11 of the Agreement is not meant to modify or augment the Agreement. Specifically,
12 Wulff Trust is to pay the sum of \$20,000.00 (the "Settlement Funds") to the
13 Receiver, and in exchange, the Receiver agrees to release his claims against Wulff
14 Trust with respect to the Transfers. Pursuant to the Agreement, Wulff Trust shall
15 pay the Settlement Funds to the Receiver within five business days following entry
16 of an order approving this Application and the Agreement.

17 **III.**

18 **THIS APPLICATION MAY BE FILED ON AN EX PARTE BASIS**

19 Pursuant to the instructions of this Court, the Receiver is applying for the
20 approval of the Settlement Agreement on an ex parte basis in order to maximize
21 efficiency for both the Court and the receivership estate. Accordingly, this
22 Application may properly be brought before the Court on an ex parte basis.

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² Declaration of David A. Gill, at ¶ 3, Exhibit "1."
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1 IV.

2 **THE APPLICATION AND AGREEMENT SHOULD BE APPROVED**

3 In ruling on proposed settlements, the standard that courts applied under the
4 former Bankruptcy Act is the same standard as courts apply under the Bankruptcy
5 Code.³ The Ninth Circuit Court of Appeals stated the standard as follows:⁴

6 In determining the acceptability of a proposed compromise
7 the following four factors should be considered: (1) The
8 probability of success in the litigation; (2) The difficulties,
9 if any, encountered in the matter of collections; (3) The
10 complexity of the litigation involved, the expense,
11 inconvenience and delay necessarily attending it; and (4)
12 The paramount interest of the creditors and a proper
13 deference to their reasonable views.

14 Applying the four factors described above, the Receiver believes that the
15 proposed Agreement is reasonable.

16 **A. Probabilities of Success**

17 The principal issue being resolved by the Agreement is the settlement of any
18 claims by the Receiver against Wulff Trust and all defenses alleged or available to
19 Wulff Trust. The litigation would, for the most part, deal with Wulff Trust's
20 defenses against the Receiver's claims. The Receiver is confident that he would
21 prevail in an action to recover the Transfers but at significant expense to the
22 receivership estate, as is usually the case with litigation. Although the Receiver is
23 likely to prevail in this case, the settlement value may represent, in all likelihood, a
24 higher net gain for the estate than if the Receiver prevails in litigation.

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26 ³ See *In re Carla Leather, Inc.*, 44 B.R. 457, 466 (Bankr. S.D.N.Y. 1984).

27 ⁴ *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986) (quoting *In re Flight*
28 *Transportation Corp. Securities Litigation*, 730 F.2d 1128, 1135 (8th Cir. 1984)), cert. denied sub
nom *Reavis & McGrath v. Antinore*, 469 U.S. 1207 (1985).

1 **B. Difficulties in Collection**

2 In the event that the Dispute is litigated, the Receiver is confident he can
3 recover up to \$20,000. Collection of more from Wulff Trust may pose a problem
4 given the fact that collecting an additional \$16,073.82 from Wulff Trust may prove
5 to be problematic based on Wulff Trust's assertion that the trust does not have any
6 additional assets available for any possible cash payment in excess of the Settlement
7 Funds. As a result, in the event the Receiver does prevail in a suit to recover the
8 Transfers, difficulty of collection of more than offered here may be a factor weighing
9 in favor of approving this Application.

10 **C. Complexity and Expense of Litigation**

11 Although litigation with respect to the Dispute would not be overly complex, it
12 would nonetheless increase costs to the estate and would decrease the ultimate
13 benefit to the estate. With the Agreement, the fees and costs are greatly reduced
14 while the estate obtains funds in exchange for a limited release of claims against
15 Wulff Trust. Consequently, settlement of the Dispute is appropriate given the
16 potential expense to the receivership estate resulting from litigation between the
17 Receiver and Wulff Trust.

18 **D. Paramount Interest of Creditors**

19 Most importantly, the Receiver believes that the Agreement is in the
20 paramount interest of the creditors. Without the Agreement, the receivership estate
21 may claim approximately \$36,000 against Wulff Trust, but must engage in litigation
22 to realize this amount. Per the terms of the Agreement, the Receiver will receive
23 \$20,000.00 and in return will release those claims against Wulff Trust relating to the
24 Dispute. Consequently, the Agreement is in the interests of the Creditors since the
25 estate will obtain funds while eliminating the need for litigation.

26 The Receiver has carefully considered the factors set forth above, and weighed
27 them in determining that the Agreement is a prudent and reasonable exercise of his
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1 business judgment. It is the Receiver's opinion that the Agreement is in the best
2 interests of the estate, given the nature and circumstance of the Dispute.⁵

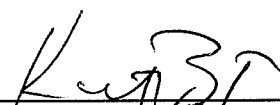
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4 V.

5 **CONCLUSION**

6 Based upon the foregoing, the Receiver respectfully requests approval of this
7 Application, the Agreement, and all other appropriate relief.

8
9 Dated: July 12, 2010

DANNING, GILL, DIAMOND & KOLLITZ, LLP

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11 By: 
12 KATHY BAZORIAN PHELPS
13 Attorneys for David A. Gill, Receiver
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28 ⁵ Declaration of David A. Gill, at ¶ 6.

DECLARATION OF DAVID A. GILL

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I, David A. Gill, declare as follows:

1. I am the Permanent Receiver appointed by this Court for Diversified Lending Group, Inc., and Applied Equities, Inc., pursuant to the Order of Preliminary Injunction and Orders: (1) Continuing Asset Freeze, (2) Appointing a Permanent Receiver, (3) Prohibiting the Destruction of Documents, (4) Granting Expedited Discovery, and (5) Requiring Accountings, signed and entered by this Court on March 10, 2009.

2. This declaration is made in support of the Ex Parte Application to Approve Settlement Agreement between Receiver and Wulff Trust ("Application").

3. Unless stated otherwise, I have personal knowledge of the facts in this declaration and, if called as a witness, I could competently testify to these facts.

4. On or about June 16, 2010, I entered into that certain agreement entitled *Settlement Agreement and Mutual Limited Release* (the "Agreement"), a true and correct copy of which is attached hereto as Exhibit "1." It is, by its terms, subject to approval of this Court.

5. A copy of the proposed order is attached hereto as Exhibit "2."

6. I have carefully considered the factors set forth in the Application, and weighed them in determining that the Agreement is a prudent and reasonable exercise of my business judgment. Furthermore, it is my opinion that the Agreement is in the best interests of the estate, given the nature and circumstance of my claims

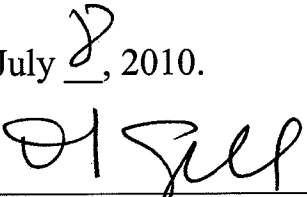
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1 against the Walter G. Wulff Revocable Trust Dated September 1, 1998 ("Wulff
2 Trust") with respect to the Dispute, as that term is defined in the Application.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Los Angeles, California, on July 2, 2010.



DAVID A. GILL

DECLARATION OF GILBERT MIKALIAN

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I, Gilbert Mikalian, declare as follows:

1. I am an attorney licensed to practice in California. I am an associate at the law firm of Danning, Gill, Diamond & Kollitz, LLP ("Danning-Gill"). Danning-Gill is the duly employed counsel to David A. Gill, the duly appointed Permanent Receiver (the "Receiver") for Diversified Lending Group, Inc., and Applied Equities, Inc., pursuant to the Order of Preliminary Injunction and Orders: (1) Continuing Asset Freeze, (2) Appointing a Permanent Receiver, (3) Prohibiting the Destruction of Documents, (4) Granting Expedited Discovery, and (5) Requiring Accountings, signed and entered on March 10, 2009, in *Securities and Exchange Commission v. Diversified Lending Group, Inc., et al.*, case number CV 09-01533-R (SSx), pending in the United States District Court, Central District of California (the "SEC Action"). I am one of the attorneys at Danning-Gill assigned to represent the Receiver in the SEC Action.

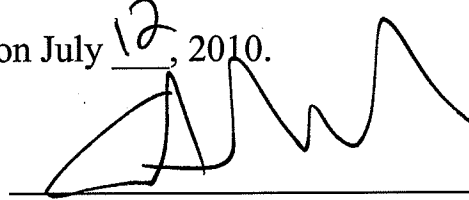
2. This declaration is made in support of the Ex Parte Application to Approve Settlement Agreement between Receiver and Wulff Trust.

3. I have personal knowledge of the facts in this declaration and, if called as a witness, I could competently testify to these facts.

4. On July 9, 2010, the proposed Notice and Application, including all exhibits attached thereto, were provided to all parties requiring notice in the Limited Service List and the Notice was posted on the website www.diversifiedreceivership.com pursuant to the Notice Procedures as set forth in an order of this Court dated May 4, 2009. The proposed Notice and Application were served electronically on the Limited Service List on July 9, 2010. The parties requiring notice in the Limited Service List have been advised that any opposition to the Application must be filed with the Court no later than twenty-four hours after receipt of the filed Application. No opposition has been received.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3 Executed at Los Angeles, California, on July 12, 2010.

A handwritten signature in black ink, appearing to read 'Gilbert Mikalian', written over a horizontal line.

Gilbert Mikalian

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Exhibit 1

SETTLEMENT AGREEMENT AND MUTUAL LIMITED RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL LIMITED RELEASE (this "Agreement"), is made and entered into as of June 16, 2010, by and between Sandra Smallwood, as Successor Trustee ("Smallwood") of the Walter G. Wulff Revocable Trust Dated September 1, 1998 ("Wulff Trust"), on the one hand, and David A. Gill, solely in his capacity as the Permanent Receiver (the "Receiver") of Diversified Lending Group, Inc., a California corporation ("Diversified"), Applied Equities, Inc. ("AEI"), and their subsidiaries and affiliates, including but not limited to MMHIM, Inc., and Diversified International (collectively, hereinafter referred to as the "Receivership Defendants"), in the United States District Court for the Central District of California, Western Division, case number CV 09-01533-R-SS, on the other hand. For purposes of this Agreement, Smallwood, the Receiver and Diversified are individually referred to as the "Party" and collectively referred to as the "Parties." This Agreement is made with reference to the following agreed facts:

RECITALS

A. On March 4, 2009, the Securities and Exchange Commission ("SEC") filed a Complaint (the "SEC Complaint") in the United States District Court for the Central District of California, Western Division, case number CV09-01533-R-SS (the "SEC Action"), alleging fraud claims and requesting relief against Diversified, AEI, and Bruce Friedman ("Friedman"), as well as Relief Defendant Tina M. Placourakis.

B. The SEC Complaint alleged, among other things, that the Receivership Defendants and Friedman perpetrated an ongoing fraudulent investment scheme whereupon the Receivership Defendants and Friedman raised

at least \$216 million by offering and selling securities in the form of one or five year "Secured Investment Notes" to numbers of investors nationwide, many of whom are older Americans. The SEC Complaint further alleged that the Receivership Defendants and Friedman did not invest the money they raised from investors as represented; rather, the Receivership Defendants and Friedman diverted a substantial amount of investor money to undisclosed business ventures or investments, as well as to Friedman, his family members and friends.

C. At the time it filed its complaint, the SEC also filed in the SEC Action an ex parte application (the "TRO Application") for a temporary restraining order and for orders: (1) freezing assets, (2) appointing a temporary receiver, (3) prohibiting the destruction of documents, (4) granting expedited discovery, and (5) requiring accountings, and for an order to show cause re preliminary injunction and appointment of a permanent receiver.

D. On March 4, 2009, this Court granted the TRO Application and, among other things, appointed David A. Gill as Temporary Receiver. The order was amended and superseded by two additional orders of the Court. One, entered on March 10, 2009, appointed David A. Gill as Permanent Receiver and another, entered on or about March 31, 2009, clarified the earlier orders by specifically naming certain wholly owned subsidiaries and their assets as subject to administration in the receivership.

E. On March 2, 2010, the Receiver filed a complaint ("the Complaint") against Smallwood, among many others, to avoid and recover fraudulent transfers, among other things, in the case entitled *David A. Gill, solely in his capacity as Permanent Receiver in the matter of Securities and Exchange Commission vs. Diversified Lending Group, Inc.; Applied Equities, Inc.; Bruce Friedman and Tina M. Placourakis, U.S.D.C. case number CV09-01533-R-SS vs. David Miller et. al,*

pending in U.S. District Court, Central District of California, case number CV 10-01551-R-SS¹ (the “Action”).

F. The Receiver alleges that Walter G. Wulff or the Wulff Trust received net profits of \$36,073.82 from Diversified between February 15, 2006, and April 30, 2007 (the “Transfers”). The Transfers are specifically identified in Exhibit “A” attached hereto. The Receiver further alleges that the Receivership Defendants did not receive any consideration in exchange for the Transfers.

G. Smallwood disputes these allegations and maintains that the Wulff Trust has insufficient assets to satisfy a judgment if one were obtained against the Wulff Trust in any event (the “Dispute”).

H. Smallwood has specifically represented that the Wulff Trust only has remaining assets of approximately \$20,000 at this time.

I. The Receiver has relied on the representations of Smallwood in entering into this Agreement.

J. The Receiver and Smallwood have agreed to stop further litigation, and now desire and intend to fully and finally settle, resolve and release any and all claims between them with respect to the Dispute upon the terms, covenants and conditions set forth herein. The Receiver and Smallwood do not intend to waive any claims or defenses in connection with any matters aside from the Dispute. There may exist additional claims the Receiver has against Smallwood and which Smallwood disputes. Smallwood also disputes that the Receiver has any additional claims. There may exist additional claims Smallwood has against the Receivership Defendants; the Receiver does not concede that Smallwood has any such claims and does not waive any defenses to those claims. The only matter being resolved is the Dispute.

¹ The case number originally assigned to the complaint was CV10-01554-AGR_x, which was changed when the case was reassigned to the Hon. Manuel Real.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and subject to the terms and conditions set forth below, the parties do hereby agree as follows:

AGREEMENT

1. **Incorporation.** The Recitals set forth hereinabove are incorporated herein by reference.

2. **Settlement.** In full and final settlement of the Dispute, the Parties hereby agree that Smallwood shall pay the sum of \$20,000.00 to the Receiver within 5 business days following entry of an order approving this Agreement.

3. **Dismissal of Complaint.** Following entry of the Court order approving this Agreement and payment of the Settlement Sum in full, the Receiver and Smallwood shall enter into a stipulation for dismissal with prejudice of the Complaint against Smallwood.

4. **Releases.**

a. **Release by the Receiver.** Except for the obligations arising out of this Agreement, in further consideration of this Agreement and the other good and valuable consideration provided to the Receiver pursuant hereto, receipt of which is hereby acknowledged by the Receiver, the Receiver, for himself and on behalf of the Receivership Defendants and each and all of their respective officers, directors, stockholders, predecessors, administrators, representatives, affiliates, parent entities, subsidiary entities, attorneys, agents, insurers, successors, heirs and assigns, and each of them, (collectively, the "Receiver Releasing Parties") hereby absolutely, forever and fully, releases and discharges Smallwood, her administrators, estates, affiliates, beneficiaries, trusts, trustees, trustors, executors,

employees, representatives, attorneys, agents, insurers, predecessors, successors, heirs, beneficiaries, and assigns, and each of them (collectively, the "Smallwood Released Parties") from any and all claims related to the Dispute (the "Receiver Claims"), whether due or owing in the past, present or future and whether based upon contract, tort, statute or any other legal or equitable theory of recovery, and whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured, with respect to, pertain to, or arising from any matters, acts, omissions, events, conduct, or occurrences at any time prior to the date of this Agreement with respect to the allegations set forth herein relating to the Dispute.

b. Release by Smallwood. Except for the obligations arising out of this Agreement, in further consideration of this Agreement and the other good and valuable consideration provided to Smallwood pursuant hereto, receipt of which is hereby acknowledged by Smallwood, Smallwood, her administrators, estates, beneficiaries, trusts, trustees, trustors, executors, employees, representatives, attorneys, agents, insurers, predecessors, successors, heirs, beneficiaries, and assigns, and each of them (collectively, the "Smallwood Releasing Parties") hereby absolutely, forever and fully, releases and discharges the Receiver, for herself and on behalf of Diversified and each and all of her respective officers, directors, stockholders, predecessors, administrators, representatives, affiliates, parent entities, subsidiary entities, attorneys, agents, insurers, successors, heirs and assigns, and each of them, (collectively, the "Receiver Released Parties") from any and all claims, related to the Dispute (hereinafter collectively referred to as the "Smallwood Claims"), whether due or owing in the past, present or future and whether based upon contract, tort, statute or any other legal or equitable theory of recovery, and whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured, with respect to, pertaining to, or arising from

any matters, acts, omissions, events, conduct or occurrences at any time prior to the date of this Agreement solely with respect to the allegations set forth herein relating to the Dispute.

c. Excluded From Release. Notwithstanding anything contained in this Agreement to the contrary, it is the express intention of the Receiver Releasing Parties and Smallwood Releasing Parties (collectively, the "Releasing Parties") and the Receiver Released Parties and the Smallwood Released Parties (collectively, the "Released Parties"), and each of them, that the Claims released pursuant to Paragraph 4 (a) and Paragraph 4 (b) (hereinafter collectively referred to as the "Release") do not include: (i) claims, if any, which arise from, pertain to, or are based upon a breach of this Agreement, including, but not limited to, a breach of any or all of the representations and warranties set forth in this Agreement; (ii) claims, if any, which arise from, pertain to or are based upon the executory obligations of this Agreement or (iii) any claims or defenses relative to matters not part of the Dispute.

d. Effectiveness of Releases. The releases set forth in the Paragraphs above shall become effective, and are expressly conditioned upon, the full performance of the parties' respective obligations set forth in this Agreement and court approval in the SEC Action.

e. Representations and Warranties of the Releasing Parties. The Releasing Parties, and each of them, represent and warrant to the Released Parties, and each of them, that they have all necessary power and authority to make such release, including any necessary consent or approval from any person and including the absence of any duty or obligations that would prevent, or be put in breach or default by, such release, and have not heretofore transferred or attempted to transfer all or any part of any such thing released in any manner whatsoever,

including by way of subrogation or operation of law. The Releasing Parties, and each of them, indemnify and hold harmless the Released Parties, and each of them, with respect to any liability, cost, expense or claim with respect to, pertaining to, or arising from any assertion of any such obligation or transfer or lack of such power or authority including, but not limited to reasonable attorneys' fees and costs. The Releasing Parties, and each of them, represent and warrant further to the Released Parties, and each of them, that this Release is executed voluntarily and without duress or undue influence on the part of or on behalf of the Released Parties or any other person or entity whatsoever.

f. Release and Waiver of Rights Under Section 1542. Subject to the provisions set forth above at Paragraph 4(a) through 4(e), the Parties to this Agreement further represent and warrant to each other that they are fully aware of California Civil Code Section 1542 ("Section 1542"), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Parties each hereby waive and relinquish every right or benefit that they have or might have under Section 1542 to the full extent that they may lawfully waive such right or benefit with regard to the Receiver Claims and the Smallwood Claims released in Paragraphs 4(a) and 4(b) above (collectively, the "Released Claims"). In connection with such waiver and relinquishment, the Parties each acknowledge that they might later discover facts in addition to or different from those which they now know or believe to be true with respect to the Released

Claims, but that it is their intention hereby fully, finally and forever to settle and release all Released Claims. This Agreement is intended to be and is final and binding, regardless of any claims of misrepresentation, concealment of fact, or mistake of law or fact and shall be and remain in effect as a full and complete release of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto. In furtherance of such intention, the releases in this Agreement shall be and shall remain in effect as full and complete releases, notwithstanding the discovery or existence of any such additional or different facts.

5. **Effectiveness; Subject to Prior Approval of District Court.**

Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and hereby agree that the terms and conditions of this Agreement, and the Parties' respective obligations hereunder, are expressly conditioned upon the approval of the form and substance of this Agreement and the settlement it contemplates by the United States District Court in the SEC Action ("Court Approval"). The Receiver shall seek Court Approval within a reasonable period of time.

6. **No Assignment.** Each party to this Agreement warrants that he has not assigned or otherwise transferred any interest in any claim which he may have against any other party to this Agreement that he releases in this Agreement, and that he owns each claim released by this Agreement.

7. **No Admission of Liability.** This Agreement constitutes a compromise and settlement of claims that are denied and contested and nothing in this Agreement, or any document referred to herein, nor any act (including, but not limited to, the execution of this Agreement) of any Party, is or shall be treated, construed or deemed as an admission by any Party of any liability, fault,

responsibility, or guilt of any kind to any other Party or to any person, as to any allegation or claim, for any purpose whatsoever, all such liability fault, responsibility and guilt of any kind being expressly denied.

8. **Interpretation.**

a. Advice and Reliance. All Parties to this Agreement mutually represent and warrant that each are and have been represented by independent counsel regarding the above-mentioned disputes and that they have entered into this Agreement after consultation with such attorneys and other professional advisors they deem necessary or appropriate in connection with the preparation and execution of this Agreement, including but not limited to the foregoing releases and waivers.

b. Mutually Drafted. This Agreement shall be deemed to have been mutually drafted and shall be construed fairly and in accord with its terms. No Party shall be entitled to any presumption or construction in such Party's favor as a result of any Party having assumed the primary burden of memorializing all Parties' agreements, or any party thereof, in this writing.

9. **Attorneys' Fees.** Each Party shall bear its own attorneys' fees and costs incurred in connection with the Action and with the preparation and execution of this Agreement. In the event of any lawsuit, action or other court proceeding arising out of the subject matter of this Agreement and seeking to enforce any provision of this Agreement, or to enforce any remedy available under this Agreement, the prevailing party shall be entitled to recover, in addition to any other damages assessed, his reasonable attorneys' fees and costs, including expert witness fees and expenses, incurred in litigating such dispute. Lawsuits, actions or other court proceedings arising out of the subject matter of this Agreement and seeking to enforce any provision of this Agreement shall include, but are not

limited to, the scope of releases set forth in Paragraphs 4(a) and 4(b), and the scope of the exclusion set forth in Paragraph 4(c), including whether any future purported claim or defense are relative to matters not part of the Dispute as described in Paragraph 4(c)(iii).

10. No Press Releases. The Parties agree not to issue (or caused to be issued) any press releases or press statements in connection with this Agreement or in reference to Smallwood's business entities, including Smallwood Associates. However, nothing in this provision will prevent Parties from filing motions with the Court seeking approval for the settlement, status reports for the Court, and other Court filings relating to Smallwood individually.

11. Miscellaneous.

a. Successors and Assigns. This Agreement shall be binding upon, shall inure to the benefit of, the parties hereto and their heirs, administrators, executors, legatees, devisees, beneficiaries, representatives, permitted successors and assigns and any and all persons holding directly or indirectly under any of the foregoing.

b. Further Assurances. The parties hereto agree to execute, acknowledge and deliver all documents, instruments, agreements and other assurances of any kind reasonably requested by any party or reasonably required of the party asked to supply same if reasonably necessary to fulfill that party's obligations under this Agreement and each party agrees it will take any other action consistent with the terms of this Agreement that may reasonably be requested by any party for the purposes of carrying out any of the provisions hereof.

c. Governing Law. This Agreement shall be construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of California, without regard to choice of law principles and shall be enforceable only in the United States District Court for the Central District of California in the courtroom in which the SEC Action is then pending, or after that case is closed, in the United States District Court for the Central District of California, with notice to the court that it is related to a case pending at the time of the Agreement. The Parties agree that the United States District Court retains jurisdiction to enforce this Agreement and agree that the order approving the Agreement shall contain language so stating.

d. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to the subject matter contained herein, and supersedes and cancels any and all prior and contemporaneous agreements, negotiations, representations, arrangements and understandings, oral or written, of the parties with respect to such subject matter. No representation, promise, inducement or statement of intent has been made by the parties which is not embodied in this Agreement and no party shall be bound by or be liable for any alleged representation, promise, inducement or statement of intention not specifically and unequivocally set forth in this Agreement.

e. Severability. The provisions of this Agreement are severable; if any provision of this Agreement is declared or found to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

f. Headings. The headings used in this Agreement are included for convenience only and are not to be used in construing or interpreting this Agreement or any portion of this Agreement.

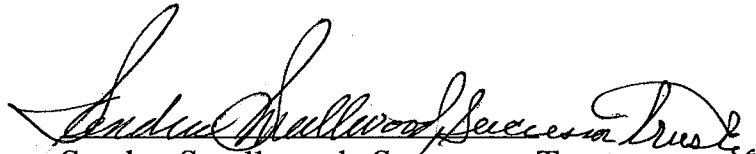
g. Exhibits and Other Writings. Any and all exhibits, documents, instruments, certificates or other writings attached hereto or required or provided for by this Agreement, if any, shall be part of this Agreement and shall be considered set forth in full at each reference thereto in this Agreement.

h. Modification. No supplement, modification, waiver, or amendment of this Agreement or any provision hereof shall be binding unless such supplement, modification, waiver, or amendment is in writing and executed by the Party against whom enforcement of such supplement, modification, waiver, or amendment is sought and approved by the Court if such approval is necessary.

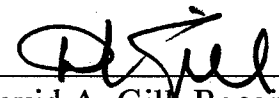
i. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Wulff Trust


Sandra Smallwood, Successor Trustee
for the Walter G. Wulff Revocable
Trust

Receiver


David A. Gill, Receiver for the estate
of Diversified Lending Group, Inc.,
a California corporation

Receivership of Diversified Lending Group, Inc.
 Detail of Transactions
 Account Number 06-01113 - Walter Wulff

Receipts	
Wulff, Walter	\$200,000.00
Disbursements	
Smallwood, Sandy	(201,134.25)
Wulff, Walter	(34,939.57)
Net Transactions	<u>(\$36,073.82)</u>

DB ID	Bank Account	Clear Date	DLG Check #	3rd Party Check #	Payee/Payor	Amount
28476	DLG-WF-1001	27-Oct-06		918	WULFF, WALTER	\$200,000.00
6625	AEI-WF-3757	04-Dec-06			WULFF, WALTER	(1,727.85)
6829	AEI-WF-3757	03-Jan-07			WULFF, WALTER	(1,528.77)
7239	AEI-WF-3757	02-Feb-07			WULFF, WALTER	(1,528.77)
33065	AEI-WF-3757	28-Feb-07			WULFF, WALTER	(1,380.82)
17961	DLG-WF-1001	12-Mar-07	4448		WULFF, WALTER	(726.33)
33176	AEI-WF-3757	30-Mar-07			WULFF, WALTER	(1,528.77)
33212	AEI-WF-3757	01-May-07			WULFF, WALTER	(1,479.45)
33121	AEI-WF-3757	01-Jun-07			WULFF, WALTER	(1,528.77)
33288	AEI-WF-3757	29-Jun-07			WULFF, WALTER	(1,479.45)
33417	AEI-WF-3757	31-Jul-07			WULFF, WALTER	(1,528.77)
33818	AEI-WF-3757	04-Sep-07			WULFF, WALTER	(1,528.77)
33637	AEI-WF-3757	28-Sep-07			WULFF, WALTER	(1,479.45)
33366	AEI-WF-3757	31-Oct-07			WULFF, WALTER	(1,528.77)
33526	AEI-WF-3757	30-Nov-07			WULFF, WALTER	(1,479.45)
35611	AEI-WF-3757	28-Dec-07			WULFF, WALTER	(1,528.77)
33716	AEI-WF-3757	04-Feb-08			WULFF, WALTER	(1,528.77)
34148	AEI-WF-3757	03-Mar-08			WULFF, WALTER	(1,380.82)
14943	DLG-WF-1001	12-Mar-08	7280		WULFF, WALTER	(4,030.58)
34342	AEI-WF-3757	01-Apr-08			WULFF, WALTER	(1,528.77)
34630	AEI-WF-3757	01-May-08			WULFF, WALTER	(1,479.45)
32807	AEI-WF-3757	02-Jun-08			WULFF, WALTER	(1,528.77)
34799	AEI-WF-3757	02-Jul-08			WULFF, WALTER	(1,479.45)
21581	DLG-WF-1001	30-Jul-08	8370		SMALLWOOD, SANDY TTE WALTER WULFF TRUST	(201,134.25)
						<u>(\$36,073.82)</u>

Exhibit 2

1 GEORGE E. SCHULMAN (State Bar No. 064572)
gschulman@dgdk.com
2 KATHY BAZOIAN PHELPS (State Bar No. 155564)
kphelps@dgdk.com
3 GILBERT MIKALIAN (State Bar No. 244690)
gmikalian@dgdk.com
4 DANNING, GILL, DIAMOND & KOLLITZ, LLP
2029 Century Park East, Third Floor
5 Los Angeles, California 90067-2904
Telephone: (310) 277-0077
6 Facsimile: (310) 277-5735

7 Attorneys for David A. Gill, Receiver

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 vs.

16 DIVERSIFIED LENDING GROUP,
17 INC.; APPLIED EQUITIES, INC.; AND
BRUCE FRIEDMAN,

18 Defendants,

19 and

20 TINA M. PLACOURAKIS,

21 Relief Defendant.

Case No. CV 09-01533-R-SS

**[PROPOSED] ORDER
APPROVING SETTLEMENT
AGREEMENT BETWEEN
RECEIVER AND WULFF TRUST**

[No hearing requested]

22
23 There came before this Court the *Ex Parte Application to Approve Settlement*
24 *Agreement Between Receiver and Wulff Trust; Declarations of David A. Gill and*
25 *Gilbert Mikalian* (the "Application"), filed by David A. Gill, the Receiver (the
26 "Receiver") in the above-captioned case. The Application having been considered
27 by the Court and, good cause appearing,
28

1 **IT IS HEREBY ORDERED** that:

2 1. The Application is GRANTED in its entirety.

3 2. The terms and conditions set forth in the *Settlement Agreement and*
4 *Mutual Limited Release* between Receiver and Wulff Trust, attached as Exhibit "1"
5 to the Declaration of David A. Gill in support of the Application are hereby
6 approved.

7 3. The Receiver is hereby authorized to execute all documents and
8 otherwise take all actions the Receiver deems necessary and appropriate to effectuate
9 the settlement.

10 4. The United States District Court for the Central District of California
11 shall retain jurisdiction to enforce the Agreement.

12 5. The form and manner of notice of the Application provided by the
13 Receiver is appropriate.

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16 Dated: July __, 2010

MANUEL L. REAL
United States District Judge

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PROOF OF SERVICE

I, Patricia Morris, declare:

I am employed by the law firm of DANNING, GILL, DIAMOND & KOLLITZ, LLP, in the County of Los Angeles, State of California. I am employed in the office of a member of the bar of this court at whose direction the service was made. I am over the age of 18 years and am not a party to the within action. My business address is 2029 Century Park East, Third Floor, Los Angeles, California 90067-2904.

On July 12, 2010, I served the following document(s): **RECEIVER'S EX PARTE APPLICATION TO APPROVE SETTLEMENT AGREEMENT BETWEEN RECEIVER AND WULFF TRUST; DECLARATIONS OF DAVID A. GILL AND GILBERT MIKALIAN** on the interested parties addressed as follows:

SEE ATTACHED SERVICE LIST

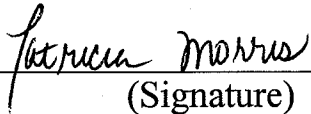
(By Mail) I placed the document for collection and deposit in the mail. I am familiar with this firm's practice for the collection and processing of correspondence for mailing. Under that practice, the document would be placed in a sealed envelope and deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at 2029 Century Park East, Third Floor, Los Angeles, California 90067-2904, in the ordinary course of business. The documents served were placed in sealed envelopes and placed for collection and mailing following ordinary business practices.

(By Electronic Transmission) I transmitted a PDF version of this document by electronic mail to the party(s) identified on the attached service list using the e-mail address(es) indicated.

I declare under penalty of perjury under the laws of the State of California and of the United States of America that the foregoing is true and correct.

Executed on July 12, 2010, at Los Angeles, California.

Patricia Morris
(Type or print name)


(Signature)

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SERVICE LIST

Attorneys for Plaintiff U.S. Securities Exchange Commission (By Email)

John M McCoy , III, Esq.
US Securities & Exchange Commission Office of Enforcement
5670 Wilshire Boulevard 11th Floor
Los Angeles , CA 90036
mccoyj@sec.gov

**Counsel for Defendants Diversified Lending Group, Inc.,
Applied Equities, Inc., and Bruce Friedman (By U.S. Mail)**

Richard Elliott Drooyan, Esq.
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Los Angeles, CA 90017
richard.drooyan@mto.com

Counsel for Paul L. Goering and Wilda M. Goering (By U.S. Mail)

Kurt A. Goering, Esq.
714 E. Rose Lane, Ste. 200
Phoenix, AZ 85014
kagoering@gmail.com

**Counsel for Sandra Smallwood, as successor Trustee of the Walter G. Wulff
Revocable Trust Dated September 1, 1998 (By U.S. Mail)**

Darin K. Spiegel, Esq.
928 West Grand Avenue
Grover Beach, CA 93433