SO ORDERED.

Dated: February 13, 2013

Redfield T. Baum, Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re: GLEN MARVIN LINEBERRY and HEATHER SEALY LINEBERRY, Debtors.	No. 2:10-bk-20559-RTB Chapter 11 Adversary No. 2:10-ap-01766-RTB **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL JUDGMENT**
BENTLEY GALLERY, INC., Plaintiff, v. GLEN MARVIN LINEBERRY and HEATHER SEALY LINEBERRY, husband and wife, Defendants.	

On the parties' stipulation and good cause appearing, the Court makes findings of fact and conclusions of law, and enters final judgment as follows:

A. Following a jury trial in the Superior Court of Arizona, Maricopa County, in Case No. CV2007-001403 (the "BGI State Court Litigation"), the jury returned verdicts in favor of Plaintiff Bentley Gallery, Inc. ("BGI") and against Defendants Glen and Heather Lineberry (the "Lineberrys") on BGI's claim that Glen Lineberry breached his employment contract with BGI, and in favor of BGI and against the Lineberrys and Rosethorn Art Group, LLC ("Rosethorn") on BGI's claim that Glen Lineberry, acting as President and Chief Operating Officer of BGI, breached his fiduciary duty to BGI. The jury assessed

damages against the Lineberrys on the breach of contract claim in the principal amount of $2,850,500, and assessed damages in favor of BGI and against the Lineberrys and Rosethorn on the breach of fiduciary duty claim in the principal amount of $2,166,380.

B. Following the jury verdicts, the Superior Court of Arizona entered a Final Judgment against the Lineberrys and Rosethorn on March 19, 2010 (the "BGI State Court Judgment"). In relevant part, the BGI State Court Judgment was as follows:

> On [BGI's] claim for breach of fiduciary duty, in the principal sum of $2,166,380.00, together with accrued prejudgment interest thereon through January 31, 2010 in the amount of $1,318,227.43, and further accruing interest thereon at the statutory rate of 10% per annum ($593.53 per diem) from January 31, 2010 until paid in full.

C. The Lineberrys subsequently filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, commencing the administrative portion of this case, on June 30, 2010.

D. BGI brought this adversary proceeding ("BGI Adversary") asserting a number of claims including a claim for a declaration that the Lineberrys do not have any title or right to, or any interest in, the commissions that were the subject of the BGI State Court Litigation (the "Diverted Commissions"), a claim for an accounting as to the Diverted Commissions, an order directing the turnover of the Diverted Commissions, and non-dischargeability of the BGI State Court Judgment. Among other relief sought in the BGI Adversary was the determination that the Lineberrys hold the Diverted Commissions, and all proceeds thereof and property traceable thereto, in constructive trust for BGI and/or subject to an equitable lien in favor of BGI.

E. Following the granting of summary judgment in favor of BGI on Count Five of BGI's Complaint for (I) Declaratory Judgment, (II) Accounting; (III) Turnover of Non-Estate Property; and (IV) Determinations of Non-Dischargeability ("Adversary Complaint") (Doc. #1), the Court entered judgment ("November 17, 2011 Judgment") (Doc. #57) in favor of BGI and against the Lineberrys, determining that pursuant to

Bankruptcy Code §523(a)(4), the Lineberrys are not entitled to a discharge of their debt to BGI for breach of fiduciary duty, as set forth in the Final Judgment of the Superior Court of Arizona, in the principal amount of $2,166,380.00, together with accrued prejudgment interest thereon through January 31, 2010 in the amount of $1,318,227.43, and further accruing interest thereon at the statutory rate of 10% per annum ($593.53 per diem) from January 31, 2010 until paid in full (the "Nondischargeable Debt"); and further determining that the Nondischargeable Debt is a community claim that is nondischargeable as to (a) the separate property of Glen Lineberry, (b) the community property brought into the bankruptcy estate pursuant to Bankruptcy Code §541(a)(2), and (c) post-petition community property pursuant to Bankruptcy Code §524(a)(3). Pursuant to the Court's Order Dismissing Non-Dischargeability Claims as to Heather Sealy Lineberry's Post-Petition Sole and Separate Property Only dated August 22, 2011 (Doc. #48), all of BGI's non-dischargeability claims against Heather Lineberry's post-petition sole and separate property were dismissed with prejudice and Heather Lineberry's post-petition sole and separate property is not subject to the Nondischargeable Debt.

F. On August 2, 2012, BGI, Bentley Calverley ("Calverley") and the Lineberrys entered into a Settlement Agreement ("BGI-Lineberry Settlement"), which BGI-Lineberry Settlement is attached hereto as Exhibit A and by this reference made a part hereof (to the extent the BGI-Lineberry Settlement terms referenced herein are inconsistent with the BGI-Lineberry Settlement, the BGI-Lineberry Settlement shall control), in order to reach a compromise and settle their disputes with regard to the claims and counterclaims made in the BGI Adversary and BGI State Court Litigation, to stipulate as to the Chapter 11 reorganization plan ("Plan") payment terms with regard to BGI and satisfaction of the Nondischargeable Debt, and to address certain remaining claims and to avoid the cost and uncertainty of litigation in connection therewith. In relevant part, the BGI-Lineberry Settlement provides for, among other things, the following Plan payment terms and for the Lineberrys' stipulation to the entry in the BGI Adversary of a constructive trust judgment on the merits, with findings of fact and conclusions of law supporting such judgment as

approved by the parties or the Court, as of the date of Glen Lineberry's initial deposit of funds from BGI's bank account into the Rosethorn bank account at Wilmington Trust Company in Wilmington, Delaware ("Constructive Trust Judgment"):

- The liquidation and allocation of account proceeds for the American Funds Section 529 Plan for the Benefit of Isabel Lineberry ("529 Plan"), Wells Fargo Account IRA Account XXXX-1813 ("Wells Fargo IRA"), Charles Schwab IRA Account XXXX-1692 ("Schwab IRA") and Wells Fargo Savings Account ("Wells Fargo Savings") (collectively, "Accounts"). Prior to the date hereof, the Lineberrys have liquidated and allocated the Accounts in accordance with the BGI-Lineberry Settlement.
- The conveyance of the Lineberrys' residence to BGI, free and clear of liens and the Homestead exemption (except the Nondischargeable Debt lien) within thirty (30) days of Plan confirmation and for the amount of $495,000 to be credited against the Non-Dischargeable Debt.
- BGI's stipulation to file a dismissal of all claims made by BGI against the Lineberrys in their individual and community capacities in the BGI Adversary (except as to the entry of the Constructive Trust Judgment);
- BGI's retention of its rights to pursue appropriate claims related to the limited liability companies or other business entities in which Glen Lineberry, Heather Lineberry or the Lineberry 2003 Revocable Trust dated November 10, 2003 holds or has held a membership or ownership interest as represented under oath on the bankruptcy schedules, namely, the following entities: LoMo One, L.L.C. ("LoMo One"); Lineberry Associates, L.L.C.; Bucephalus Three, L.L.C.; Bucephalus Four, L.L.C.; Bucephalus Five, L.L.C.; Evergreen 33, LLP; Evermore, LLC and Evans Place, Inc., which holds interests in RO2, LLC and RO3, LLC ("Evans Place/RO2/RO3") (collectively, the "Lineberry Entities") (pursuant to a post-nuptial agreement and ensuing divorce decree between Glen Lineberry and Heather Lineberry, Heather

Lineberry has disclaimed all interest in any of the Lineberry Entities). Provided, however, these rights will not give rise to or result in any additional liability of any type for Glen Lineberry or Heather Lineberry for recovery beyond the interests in the Lineberry Entities. Any funds collected by BGI shall be credited to the Nondischargeable Debt. If requested by BGI, the Lineberrys will transfer their ownership interests in LoMo One and Evans Place/RO2/RO3 to BGI or as directed by BGI in return for a (1) $60,000 credit against the Nondischargeable Debt with respect to the interest in LoMo One, and, (2) a $100,000 credit against the Nondischargeable Debt with respect to the interest in Evans Place/RO2/RO3.

G. With regard to the Constructive Trust Judgment, DeConcini McDonald Yetwin & Lacy, P.C.'s ("DMYL") entitlement to legal fees previously paid to or sought by DMYL was determined under the Order Approving Settlement Agreement (1) Between Debtors, Bentley Gallery, Inc. and Bentley Calverley, and (2) Between DeConcini McDonald Yetwin & Lacy, PC, Bentley Gallery, Inc. and Bentley Calverley in the administrative case, and the entry of the Constructive Trust Judgment shall have no preclusive effect as to fees previously paid to or sought by DMYL.

H. As set forth in Article II, Section 2.6(f) Class 6: BGI Adversary Claim, subsection 4.d of the Plan with regard to the BGI Adversary and the entry of the Constructive Trust Judgment:

> As of the Effective Date, other than obligations expressly set forth in the Plan, the only surviving claims against the Lineberrys in the Chapter 11 Case and BGI Adversary shall be the [Nondischargeable Debt] and the Constructive Trust Judgment. After the discharge of Heather Lineberry under the Chapter 11 Case, other than obligations expressly owing by Heather Lineberry under the Plan, no claims shall survive against her; for the sake of clarity, after the discharge of Heather Lineberry, the [Nondischargeable Debt] shall survive only with respect to Glen Lineberry and shall not apply to Heather Lineberry. **The Constructive Trust Judgment will be binding on Heather Lineberry, but only in the sense of being res judicata. It does not create any rights to go after her post-**

bankruptcy assets. Following the discharge of Heather Lineberry, she will have no further monetary liability. All amounts collected by BGI shall be credited against the [Nondischargeable Debt].

I. In connection with BGI's constructive trust claim and the entry of the Constructive Trust Judgment, the Court finds and concludes as follows:

Findings of fact

The Court finds as follows:

1. The Lineberrys receipt of the Diverted Commissions resulted from a breach of the fiduciary duty owed by Glen Lineberry to BGI.

2. The Diverted Commissions consist of the following amounts:

Amount	Date of Diversion
$80,000	Unknown 2002
$80,000	January 9, 2003
$40,000	February 21, 2003
$70,000	March 23, 2003
$600,000	July 3, 2003
$97,500	August 19, 2003
$100,000	September 6, 2003
$1,500,000	September 29, 2003
$283,000	December 9, 2003
$2,850,500.00	Total Diverted Commissions

3. The Diverted Commissions were deposited in an account in the name of Rosethorn at the Wilmington Trust Company in Wilmington, Delaware, commencing on February 21, 2003.

4. The Diverted Commissions at all times belonged to BGI, and the Lineberrys at no time had any title or right to the Diverted Commissions.

5. The Diverted Commissions were utilized by the Lineberrys for the

acquisition of, and are traceable into, a number of assets, and for the payment of a number of identifiable expenses of the Lineberrys, including without limitation the 529 Plan, Wells Fargo IRA, Schwab IRA, Wells Fargo Savings, the real property located at 501 and 507 East Moreland, Phoenix, Arizona, the legal description of which is set forth on Exhibit B to this judgment and incorporated herein, the Lineberrys' membership interest in LoMo One, the Lineberrys' membership interest in Evans Place/RO2/RO3, and payments made to the Lineberrys' lawyers in the BGI State Court Litigation from March 27, 2007, forward.

Conclusions of Law

Based on the findings of fact, the Court concludes as follows:

1. As a result of the circumstances under which the Diverted Commissions were obtained by Glen Lineberry, the Lineberrys took no title to the Diverted Commissions and title to the Diverted Commissions at all times was held by BGI.

2. In addition, the circumstances under which the Diverted Commissions were obtained by Glen Lineberry would have made it unconscionable for the Lineberrys to retain and enjoy the beneficial interest in those funds.

3. Thus, to the extent the Lineberrys arguably had any beneficial interest in the Diverted Commissions, BGI was and is entitled to the imposition of a constructive trust on the Diverted Commissions, and on the proceeds thereof and property traceable thereto in the amounts set forth in paragraph 2 (Findings of Fact) above, from the dates set forth therein.

4. The Diverted Commissions, and the proceeds thereof and property traceable thereto, are and were from the dates set forth in paragraph 2 (Findings of Fact) above, not property of the Bankruptcy Estate.

ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Judgment is granted in favor of BGI and against the Lineberrys establishing that the Diverted Commissions and the proceeds thereof and property traceable thereto are and were, from the dates set forth in paragraph 2 (Findings of Fact) above, property of BGI

and/or were held by the Lineberrys or by Rosethorn in constructive trust for the benefit of BGI, and are and were from those dates not property of the Bankruptcy Estate.

2. Except as to the November 17, 2011 Judgment and this Final Judgment, which are final judgments and remain in effect, BGI's Adversary Complaint and this BGI Adversary are dismissed with prejudice, with each party to pay its own costs and fees.

3. This Judgment shall not apply the sum of $80,000 (representing the negotiated balance of the Homestead exemption) which sum was distributed to and retained by Heather Lineberry, under the confirmed plan of reorganization, from the liquidation of the 529 Plan, the Wells Fargo IRA, the Schwab IRA and the Wells Fargo Savings.

4. This Judgment shall have no preclusive effect as to fees previously paid to or sought by DMYL and DMYL's entitlement to such fees was determined under the Order Approving Settlement Agreement (1) Between Debtors, Bentley Gallery, Inc. and Bentley Calverley, and (2) Between DeConcini McDonald Yetwin & Lacy, PC, Bentley Gallery, Inc. and Bentley Calverley in the administrative case.

5. The Constructive Trust Judgment shall be binding on Heather Lineberry, but only in the sense of being res judicata. It does not create any rights in BGI to pursue Heather Lineberry's Lineberry's post-petition sole and separate property, which property is not subject to the Nondischargeable Debt pursuant to the Court's Order dated August 22, 2011 (Doc. #48).

Approved as to form:

DECONCINI MCDONALD YETWIN & LACY, P.C.
BY */S/ SHELTON L. FREEMAN*
Shelton L. Freeman
Attorneys for Glen Marvin Lineberry and Heather Sealy Lineberry

SACKS TIERNEY P.A.
BY */S/ JEFFREY S. LEONARD*
Jeffrey S. Leonard
Attorneys for Bentley Gallery, Inc.

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Exhibit A
BGI-Lineberry Settlement

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made and entered into as of the __ day of July, 2012, by and between (i) (a) Bentley Gallery, Inc. ("BGI"), and (b) Bentley Calverley ("Calverley"), and (ii) (a) Glen Marvin Lineberry ("Glen Lineberry") and (b) Heather Sealy Lineberry ("Heather Lineberry") (Glen Lineberry and Heather Lineberry are sometimes referred to collectively as "Lineberrys").

RECITALS

A. The Lineberrys are currently the debtors-in-possession in proceedings under Chapter 11 in the United States Bankruptcy Court for the District of Arizona ("Bankruptcy Court") Case No. 2-10-bk-20559-RTB ("Chapter 11 Case").

B. BGI filed an action against the Lineberrys and Rosethorn Art Group, LLC ("Rosethorn") in the Superior Court of Arizona, No. CV 2007-001403 ("State Court Proceeding") on January 23, 2007. On March 19, 2010 a final judgment was entered in the State Court Proceeding in favor of BGI and against the Lineberrys and Rosethorn for breach of fiduciary duty in the principal sum of $2,166,380.00, together with accrued prejudgment interest through January 31, 2010 in the amount of $1,318,227.43, further accruing interest thereon at the statutory rate of 10% per annum ($593.53 per diem) from January 31, 2010 until paid in full, and breach of employment contract in the principal sum of $2,850,500.00, together with accrued prejudgment interest through January 31, 2010 in the amount of $1,846,220.55, further accruing interest thereon at the statutory rate of 10% per annum ($780.96 per diem) from January 31, 2010 until paid in full ("Superior Court Judgment"). The Lineberrys have filed an appeal of the Superior Court Judgment.

C. On October 1, 2010, BGI brought adversary proceeding 2:10-ap-01766-RTB ("Adversary Action") asserting a number of claims, including (1) a claim for a declaration that the Lineberrys do not have any title or right to, or any interest in the commissions that were the subject of the State Court Proceeding (the "Diverted Commissions"), (2) a claim for an accounting as to the Diverted Commissions, (3) an order directing the turnover of the Diverted Commissions. (4) non-dischargeability as to the Superior Court Judgment under Section 523(a)(2)(A) of the United States Bankruptcy Code, (5) non-dischargeability as to the Superior Court Judgment under Section 523(a)(4) of the United States Bankruptcy Code, and (6) non-dischargeability as to the Superior Court Judgment under Section 523(a)(6) of the United States Bankruptcy Code.

D. Judgment was entered in the Adversary Action on November 17, 2011 in favor of BGI and against the Lineberrys holding that the Lineberrys were collaterally estopped from relitigating the claims under the Superior Court Judgment and were not entitled to a discharge of their debt for breach of fiduciary duty in the Superior Court Judgment in the principal sum of $2,166,380.00, together with accrued prejudgment interest through January 31, 2010 in the amount of $1,318,227.43, further accruing interest thereon at the statutory rate of 10% per

annum ($593.53 per diem) from January 31, 2010 until paid in full ("Non-Dischargeable Judgment"). The other counts in the Adversary Action have not been resolved, except that it was determined that non-dischargeability claims were dismissed with prejudice as to Heather Lineberry's post-petition sole and separate property.

E. On October 21, 2010, BGI filed a claim in the Chapter 11 Case for $5,371,481.10, plus unliquidated amounts.

F. On September 25, 2010, BGI filed an objection in the Chapter 11 Case to the Lineberrys' claimed exemptions. BGI subsequently filed objections on November 22, 2010 and October 20, 2011 to DeConcini, McDonald, Yetwin & Lacy, P.C.'s fee applications for legal fees incurred as counsel for the Chapter 11 estate.

G. Kimberly Mock Pendleton ("Pendleton") owner of KM Contemporary, Inc. ("KM") filed an action in the Superior Court of Arizona on April 15, 2009, CIV 2009-012005, against the Lineberrys (KM was subsequently added as a plaintiff and BGI, Bentley Dillard Calverley and Rosethorn were subsequently added as defendants; the action against Calverley has been dismissed). The case was removed to the Bankruptcy Court on July 27, 2010 as adversary proceeding 2:10-ap-01401-RTB. On December 29, 2010, the reference of the adversary proceeding from the United States District Court for the District of Arizona was withdrawn (CIV 10-2338-PHX-SRB) ("District Court Litigation"). In the District Court Litigation, KM and Pendleton asserted against Glen Lineberry, among other claims, claims for breach of contract and fraud. KM and Pendleton further alleged that BGI was liable for Glen Lineberry's acts under the doctrine of *respondeat superior.* BGI filed a cross-claim against the Lineberrys seeking indemnity in the event they should be held liable to KM and Pendleton. On March 27, 2012 KM and Pendleton reached a settlement with BGI in the District Court Litigation. On April 18, 2012 the District Court Litigation was dismissed as to all parties pursuant to the parties' Stipulation for Dismissal filed with the District Court on April 17, 2012.

H. On April 18, 2012, Pendleton and KM withdrew their Proof of Claim filed in the Chapter 11 Case.

I. On October 21, 2010, Calverley filed a claim in the Chapter 11 Case, based upon her indemnity claim in the Calverley Adversary (as defined below), for the full amount for which she may have been found liable in the District Court Litigation, and on October 25, 2010, Calverley brought adversary proceeding 2:10-ap-01900-RTB ("Calverley Adversary") alleging claims under 11 U.S.C. § 523 in connection with her indemnity claim against Glen Lineberry in connection with the District Court Litigation. The District Court Litigation was dismissed as to Calverley, without prejudice, on May 13, 2011.

J. Pursuant to a post-nuptial agreement and ensuing divorce decree between Glen Lineberry and Heather Lineberry, Heather Lineberry has disclaimed all interest in any of the Lineberry Entities (as defined herein).

K. The parties hereto wish to compromise and settle their disputes with regard to the claims and counterclaims made in the Adversary Action and District Court Litigation, to stipulate as to the Chapter 11 Case reorganization plan payment terms and address certain remaining claims, to avoid the cost and uncertainty of litigation in connection therewith.

AGREEMENT

Subject to and contingent upon Bankruptcy Court approval of this Agreement, the foregoing Recitals are acknowledged by the parties to be true and accurate, and the parties agree as follows:

1. Plan of Reorganization in Chapter 11 Case. The Lineberrys shall prepare and file on or before July 6, 2012, a Chapter 11 plan of reorganization ("Plan") consistent with the terms of this Agreement, to be approved by BGI prior to filing; BGI agrees to vote in favor of such approved Plan and to support confirmation, and the Lineberrys shall diligently seek confirmation of the Plan. The Plan shall provide for the following:

a. Upon the earlier of: (i) an order authorizing the liquidation of the accounts listed below and allocation and distribution of funds as provided below, or (ii) ten (10) days following the entry of a non-appealable order confirming the Plan ("Plan Confirmation"), the Lineberrys shall liquidate any remaining amounts in the Glen Lineberry Wells Fargo IRA Account (having an approximate balance of $126,025.49), and the Charles Schwab IRA Account (having an approximate balance of $9,668.00) (collectively, the "IRAs"), the 529 plan in the name of Isabel Lineberry (having an approximate balance of $162,211.57), and the Wells Fargo Savings Account (having an approximate balance of $50,000) and distribute such funds as provided in this Paragraph. From this liquidated amount, $89,547 ("Tax Withholding") shall be allocated to Federal and State taxes and penalties in accordance with the calculations performed by Wanda Tang, P.C. as set forth on Exhibit A, attached hereto and made a part hereof, said Tax Withholding shall be retained by the Lineberrys for such purpose only. In addition, there shall be deducted from the liquidated amount:

i. The sum of $80,000 (representing the negotiated balance of the Homestead exemption) which sum shall be distributed to and retained by Heather Lineberry (the "Homestead Amount").

ii. All other proceeds from the IRAs, the 529 plan, and the Wells Fargo Savings Account shall be delivered to BGI and credited against the Non-Dischargeable Judgment.

b. The Lineberrys' residence will be deeded to BGI, free and clear of liens and the Homestead exemption (except the Non-Dischargeable Judgment lien) and the amount of $495,000 shall be credited against the Non-Dischargeable Judgment. The transfer of the residence shall take place within thirty (30) days of Plan Confirmation.

c. The Plan will provide for the payment of 25% of Glen Lineberry's regular earnings (meaning compensation paid for employment, and not amounts which are reimbursed to Glen Lineberry) net of standard withholdings (i.e., federal, state, FICA, medicare, OASI, Arizona retirement, disability, health insurance and vision insurance) for a 60 month period following Plan Confirmation. Such payment shall be made by Glen Lineberry on or before the 10th day of each month (such payment based upon the prior month's compensation). During the Plan and as long as such plan contributions are made by Glen Lineberry, BGI shall be precluded from pursuing garnishment of Glen Lineberry's salary. To the extent Glen Lineberry has other non-exempt assets, BGI may proceed with other collection efforts. After completion of the Plan payments, BGI shall be entitled to pursue all remedies for the remaining balance of the Non-Dischargeable Judgment.

d. All funds paid to BGI shall be credited against the non-dischargeable portion of the Non-Dischargeable Judgment.

2. Lineberrys' Stipulation to Constructive Trust Judgment in Adversary Proceeding. The Lineberrys shall stipulate to the entry of a constructive trust judgment on the merits, with findings of fact and conclusions of law supporting such judgment as approved by the parties or the Bankruptcy Court, in the Adversary Action as of the date of Glen Lineberry's initial deposit of funds from BGI's bank account into the Rosethorn bank account at Wilmington Trust Company in Wilmington, Delaware, subject to the following ("Constructive Trust Judgment"):

a. The Constructive Trust Judgment shall have no preclusive effect as to fees previously paid to or sought by DeConcini McDonald Yetwin & Lacy, P.C. ("DMYL Fees"); DeConcini McDonald Yetwin & Lacy, P.C.'s entitlement to DMYL Fees shall be determined by the Bankruptcy Court ("Fee Order"). The Fee Order shall supersede the Constructive Trust Judgment as to any DMYL Fees awarded.

b. The Constructive Trust Judgment shall not apply to the Homestead Amount.

3. BGI's Dismissal of Claims in the Adversary Action; Calverley's Dismissal of claims in the Calverley Adversary; BGI's and Calverley's Dismissal or Withdrawal of Claims or Objections in the Chapter 11 Case.

BGI and Calverley agree as follows:

a. Within 10 days after Plan Confirmation, BGI shall file with the Bankruptcy Court a dismissal of all claims made by BGI against the Lineberrys in their individual and community capacities in the Adversary Action (except as to the entry of the Constructive Trust Judgment). Except as otherwise provided in this Settlement Agreement, such dismissal shall be with prejudice with respect to all remaining claims for recovery beyond the interests in the Lineberry Entities (as defined herein) against the Lineberrys only, but shall not be determinative or preclusive as to either DMYL Fees previously paid or sought to be paid by DeConcini McDonald Yetwin & Lacy, P.C. or as to any claims that may be brought against third parties;

b. Within 10 days after Plan Confirmation, Calverley shall file with the Bankruptcy Court a dismissal with prejudice of all claims made by Calverley against the Lineberrys in the individual and community capacities in the Calverley Adversary and withdraw Proof of Claim #4;

c. Upon Plan Confirmation, BGI and Calverley agree not to pursue any further action against Heather Lineberry. BGI and Calverley further agree not to pursue any claim or other action in the event Heather Lineberry converts to a Chapter 7 proceeding, including, without limitation, claims against Heather Lineberry's exempt property. Notwithstanding the foregoing, BGI and Calverley may pursue actions on rights provided in this Agreement.

d. Upon Plan Confirmation, the only surviving claims against the Lineberrys in the Chapter 11 Case and Adversary Action shall be the Non-Dischargeable Judgment and the Constructive Trust Judgment. After the discharge under the Chapter 11 Case, only the Non-Dischargeable Judgment shall survive with respect to Glen Lineberry. All amounts collected by BGI shall be credited against the Non-Dischargeable Judgment.

e. Upon Plan Confirmation, BGI's objections to exemptions are resolved as set forth in this Agreement.

4. Lineberrys' Waiver of Right to Appeal. Within 10 days after Plan Confirmation, the Lineberrys agree to dismiss the pending appeal of the Superior Court Judgment and waive the right to appeal the Non-Dischargeable Judgment and the Constructive Trust Judgment.

5. Glen Lineberry's Agreement to Cooperate in BGI's Pursuit of Remaining Claims. Glen Lineberry agrees to reasonably cooperate with BGI in the bringing and pursuit of claims which may be asserted against others in the future in any other action arising out of, or related to, its claims, at no expense to Glen Lineberry. Glen Lineberry further agrees to appear and testify truthfully and fully, if reasonably

requested by BGI, in any proceedings, formal or informal, relating to the claims described above, at no expense to Glen Lineberry. BGI agrees to reimburse Glen Lineberry for reasonable and necessary travel expenses incurred by Glen Lineberry in connection with appearances made at BGI's request. BGI agrees that the reasonableness of BGI's requests under this Paragraph 5 necessarily entails, without limitation, reasonable accommodation for Glen Lineberry's work schedule as a school teacher or such other employment that he may engage in during the pendency of the completion of the Plan, including activities relating to Glen Lineberry's work that occur outside of Glen Lineberry's regular scheduled work hours (e.g., extra-curricular activities, travel, or chaperoning or training related to his employment as a school teacher). The time period during which Glen Lineberry agrees to cooperate as provided in this Paragraph 5 shall not extend beyond the completion of the Plan. Glen Lineberry's agreement to cooperate under this Paragraph 5 in no way constitutes a waiver of the attorney-client privilege or agreement to waive such privilege in the future.

6. BGI's Reservation of Rights. Notwithstanding the above, BGI retains its rights to pursue appropriate claims related to the limited liability companies or other business entities in which Glen Lineberry, Heather Lineberry or the Lineberry 2003 Revocable Trust dated November 10, 2003 holds or has held a membership or ownership interest as represented under oath on the bankruptcy schedules, namely, the following entities: LoMo One, L.L.C.; Lineberry Associates, L.L.C.; Bucephalus Three, L.L.C.; Bucephalus Four, L.L.C.; Bucephalus Five, L.L.C.; Evergreen 33, LLP; Evermore, LLC and Evans Place, Inc., which holds interests in RO2, LLC and RO3, LLC (collectively, the "Lineberry Entities"). However, BGI acknowledges that these rights will not give rise to or result in any additional liability of any type for Glen Lineberry or Heather Lineberry for recovery beyond the interests in the Lineberry Entities. Any funds collected by BGI shall be credited to the Non-Dischargeable Judgment. If requested by BGI, the Lineberrys will transfer their ownership interests to BGI or as directed by BGI in return for a (1) $60,000 credit against the Non-Dischargeable Judgment with respect to the interest in LoMo One, L.L.C., and, (2) a $100,000 credit against the Non-Dischargeable Judgment with respect to the interest in Evans Place, Inc./RO3, LLC.

7. Non-Disparagement. BGI and Calverley, on the one hand, and Heather Lineberry, on the other hand, agree that they will not make or communicate any comments or other remarks which would tend to disparage, slander, ridicule, or degrade the other.

8. Court Approval. The Lineberrys shall file immediately with the Bankruptcy Court a motion to approve this Agreement and to file a proposed order of approval. The parties agree that the Agreement is subject to Bankruptcy Court approval; the obligations of the parties hereunder shall not become effective or enforceable until the first business day after the order by the Bankruptcy Court approving this Agreement becomes final and non-appealable ("Effective Date").

9. Representations and Warranties. Each of the parties hereto represents and warrants, acknowledges and agrees that:

(1) The terms and conditions of this Agreement are fair and enforceable.

(2) It has obtained advice from independent legal counsel concerning the meaning and effect of this Agreement.

(3) It has had sufficient time to consider the meaning and effect of this Agreement.

(4) It has not assigned any claims being released under the terms of this Agreement.

(5) It has full power and authority to execute this Agreement and perform its obligations hereunder and this Agreement is duly authorized, executed and delivered and is legal, valid, binding and enforceable.

10. No Admission of Liability. This Agreement shall not be deemed or construed as an admission of liability by any party released by the terms hereof, except for liabilities expressly and specifically arising under this Agreement.

11. General Provisions.

a. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. The parties hereby expressly agree that the Bankruptcy Court shall have the exclusive jurisdiction over any litigation brought to declare, determine or enforce any right or obligation arising directly or indirectly out of or under the terms of this Agreement, and the parties hereto consent and submit to such jurisdiction.

b. Binding Effect, Entire Agreement. This Agreement is made by the parties on their own behalf and on behalf of their agents, successors and assigns, heirs and devisees, and, in the case of the Lineberrys, the Lineberry 2003 Revocable Trust dated November 10, 2003, and shall be binding upon, and shall inure to the benefit of, the parties and their agents, successors and assigns, heirs and devisees, and, in the case of the Lineberrys, the Lineberry 2003 Revocable Trust dated November 10, 2003. This Agreement embodies the entire agreement between the parties hereto with respect to the settlement and releases herein and there are no other agreements or understandings related to such settlement and releases. This Agreement supersedes any and all prior agreements and understandings, written or oral, formal or informal, with regard to the subject matter hereof.

c. Litigation. In the event of any dispute or litigation between the parties of this Agreement relating to or arising out of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at the pretrial, trial and appellate levels.

d. Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver as to any other instances or items.

e. Counterparts; Facsimile. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. An executed copy and an executed facsimile of this Agreement shall be deemed as binding and effective as an executed original Agreement.

f. Construction. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders to the extent appropriate. All parties to this Agreement have participated fully in the negotiation and the preparation hereof, and, accordingly, this Agreement shall not be construed more strictly against any of the parties hereto.

g. Incorporation. The recitals to this Agreement are hereby incorporated into and made a part of this Agreement.

h. Settlement. This Agreement and the settlement contemplated hereby is made in an attempt to settle and compromise disputed claims. In the event that the Effective Date does not occur for any reason, no provision of this Agreement will be deemed to be an admission of any party, it being expressly understood that the entirety of this Agreement is subject to Federal Rule of Evidence 408.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The parties have executed this Agreement as of the date set forth above. This Settlement Agreement dated ~~July~~ Aug 2, 2012.

Glen Lineberry

Heather Lineberry

Bentley Gallery, Inc.

By: _____

By: _____
Name: Bentley Dillard Calverley
Title: President

Bentley Calverley

The parties have executed this Agreement as of the date set forth above. This Settlement Agreement dated July ___, 2012.

Glen Lineberry

Heather Lineberry

Bentley Gallery, Inc.

By:_____

By:_____
Name: _____
Title: President

_____
Bentley Calverley

Exhibit A

Federal Tax	$62,688
10% IRA and 529 Penalty	$18,932
Federal Tax Liability	$81,620
Arizona Tax Liability	$ 8,027
	$89,647

Exhibit B
Legal description of 501 and 507 East Moreland properties

LOTS 17 AND 18, BLOCK 5, OF EAST EVERGREEN, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 3 OF MAPS, PAGE 53;

EXCEPT THE EAST 12 FEET OF THE SOUTH 53 FEET; AND

EXCEPT THE EAST 58 FEET OF THE NORTH 137 FEET OF LOT 17, BLOCK 5, OF EAST EVERGREEN, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 3 OF MAPS, PAGE 53.

and

THE EAST 12 FEET OF THE SOUTH 53 FEET; AND THE EAST 58 FEET OF THE NORTH 137 FEET OF LOT 17, BLOCK 5, OF EVERGREEN, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 3 OF MAPS, PAGE 53.

Exhibit B