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11 **UNITED STATES BANKRUPTCY COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **LOS ANGELES DIVISION**

14 In re

Case No. 2:08-bk-32333 BR

15 NAMCO CAPITAL GROUP, INC.,

Chapter 11

16 Debtor.

**NOTICE OF JOINT MOTION AND JOINT
17 MOTION OF BRADLEY D. SHARP, CHAPTER
18 11 TRUSTEE FOR NAMCO CAPITAL GROUP,
19 INC. AND WALL STREET MART, L.P.,
20 DEBTOR AND DEBTOR-IN-POSSESSION,
21 FOR AN ORDER APPROVING AND
22 AUTHORIZING THE EXECUTION OF AND
23 PERFORMANCE UNDER THE *SETTLEMENT
24 AGREEMENT* BETWEEN THE ESTATE OF
25 NAMCO CAPITAL GROUP, INC., THE
26 ESTATE OF WALL STREET MART, L.P.,
27 AND THE RASTEGAR PARTIES;
28 MEMORANDUM OF POINTS AND
AUTHORITIES; AND DECLARATION OF
BRADLEY D. SHARP IN SUPPORT THEREOF**

Hearing:

Date: December 14, 2011
Time: 2:00 p.m.
Courtroom: 1668
255 E. Temple Street
Los Angeles, California 90012

29 **TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY JUDGE,**
30 **AND INTERESTED PARTIES:**

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 Bradley D. Sharp, Chapter 11 Trustee (the "Namco Trustee") of the bankruptcy estate of
5 Namco Capital Group, Inc. ("Namco"), and Wall Street Mart, L.P., debtor and debtor-in-possession
6 ("Wall Street") (the Namco Trustee and Wall Street are referred hereinafter collectively as the
7 "Moving Parties"), hereby move this Court for an order approving, and authorizing the Moving
8 Parties to execute, and perform pursuant to, that *Settlement Agreement* (the "Agreement") entered
9 into between the Moving Parties, Rassol, LLC, a Delaware limited liability company ("Rassol"),
10 Amona Investments, Inc., a California corporation ("Amona"), Inglewood Investment Company,
11 Inc., a California corporation ("Inglewood"), The Rastegar Family Trust ("Trust"), Solomon
12 Rastegar, an individual ("Solomon"), Roxana Rastegar, an individual ("Roxana"), Mahi Rastegar,
13 an individual ("Mahi"), Jessica Kimiabakhash, an individual ("Jessica"), Michele Kimiabakhash, an
14 individual ("Michele"), and Shabnam Kimiabakhash, an individual ("Shabnam"). Wall Street,
15 Namco, the Trustee, Rassol, Amona, Inglewood, the Trust, Solomon, Roxana, Mahi, Jessica,
16 Michele and Shabnam are sometimes referred to hereinafter as the "Parties" or a "Party" and Rassol,
17 Amona, Inglewood, the Trust, Solomon, Roxana, Mahi, Jessica and Shabnam are sometimes
18 referred to hereinafter collectively as the "Rastegar Parties"). The Agreement is appended to the
19 attached Sharp Declaration as Exhibit 1. Capitalized terms used in this Motion and not specifically
20 defined herein shall have the meaning ascribed to such terms in the Agreement.

21 As explained herein, the Agreement encompasses a settlement and resolution of various
22 issues between Namco and Wall Street, on the one hand, and the Rastegar Parties, on the other
23 hand, concerning the Rastegar Note(s), the Namco Claim, the Wall Street Claim, the Guaranty, the
24 Deeds of Trust, the Pledge Agreement, the Rassol Action, the Inglewood Action, the Amona Action
25 and the Rastegar Action. The Agreement avoids the risks and costs associated with litigation of the
26 disputes described herein; is in the best interests of these bankruptcy estates, and should be
27 approved as submitted.

1 II.

2 **STATEMENT OF FACTS**

3 On November 20, 2009 (the "Wall Street Petition Date"), Wall Street filed a voluntary
4 petition for relief under Chapter 11 of title 11 of the United States Code ("Bankruptcy Code") in the
5 United States Bankruptcy Court for the Central District of California, Los Angeles Division
6 ("Bankruptcy Court"), Case No. 2:09-42717-BR (the "Wall Street Bankruptcy Case").

7 An involuntary petition under Chapter 11 of title 11 of the United States Code ("Bankruptcy
8 Code") was filed against Namco in the Bankruptcy Court on December 22, 2008 (the "Namco
9 Petition Date"), Case No. 2:08-32333-BR (the "Namco Bankruptcy Case"). An order for relief
10 under Chapter 11 of the Bankruptcy Code was entered in the Namco Bankruptcy Case on January
11 29, 2009. By order of the Bankruptcy Court entered May 8, 2009, Bradley D. Sharp was appointed
12 as the Chapter 11 trustee of Namco.

13 As of November 12, 2009, Namco became the general partner of Wall Street, and holds a
14 .01% partnership interest therein. As of the Wall Street Petition Date, the limited partners of Wall
15 Street were Ezri Namvar ("Namvar") and Beshmada, LLC, each holding approximately 48.9951%.
16 The balance of the partnership interests, approximately 1.9998%, is held by Sora, Inc.

17 Prior to the Petition Date, Namco was primarily engaged in the business of borrowing
18 money from individuals and then either (i) lending such funds to third parties, which loans were
19 typically secured by real property or (ii) investing such funds in real property.

20 Between 2005 and 2008, Namco borrowed (and partially repaid) various sums of money
21 from the Rastegar Parties pursuant to certain unsecured promissory notes (the "Rastegar Notes").
22 As of August 22, 2008, the aggregate amount owed to the Rastegar Parties under the Rastegar Notes
23 was approximately \$18,525,000.

24 On or before August 22, 2008, certain of the Rastegar Parties assigned the Rastegar Notes to
25 Rassol. Thereafter, Namco and Namvar executed that certain Secured Promissory Note dated as
26 of August 22, 2008 in favor of Rassol in the amount of \$18,525,000 (the "Rassol Note"), and the
27 Rastegar Notes were canceled. As security for the Rassol Note, Namvar caused Wall Street to
28 execute that certain Pledge And Security Agreement dated as of August 22, 2008 (the "Pledge

1 Agreement"), pursuant to which Wall Street pledged to Rassol, eighty percent (80%) of Wall
2 Street's membership interests (the "Pledged Interests") in Culver Marina Lease, LLC, a California
3 limited liability company ("Culver Marina"), Buckingham Heights Lease, LLC, a California limited
4 liability company ("Buckingham Heights"), Watt Leed Lease, LLC, a California limited liability
5 company ("Watt Leed"), and McConnel Marina Lease, LLC, a California limited liability company
6 ("McConnel Marina") (collectively referred to hereinafter as the "LLCs"). After the execution of the
7 Pledge Agreement, Wall Street retained the remaining twenty percent (20%) of the membership
8 interests in the LLCs. To further secure the Rassol Note, on or about August 22, 2008, Namvar
9 caused 780B LaBrea, LLC, a Delaware limited liability company ("LaBrea"), Wishlab 90 Nevada,
10 LLC, a Delaware limited liability company ("Wishlab"), Arlington 360 Associates, L.P., a Texas
11 limited partnership ("Arlington"), and Bruton Buckner Associates, L.P., a Texas limited partnership
12 ("Bruton") to execute that certain Multi-Party Guaranty (the "Guaranty") for the benefit of Rassol
13 dated as of August 22, 2008 and to execute deeds of trust against certain real property owned by
14 LaBrea, Wishlab, Arlington and Bruton (the "Trust Deeds").

15 Namco defaulted on its obligations under the Rassol Note and on April 7, 2009, Rassol filed
16 proof of claim number 86 in the amount of \$18,525,000 plus accrued interest in the Namco
17 Bankruptcy Case (the "Namco Claim"). On June 28, 2010, Rassol filed proof of claim number 4 in
18 the amount of \$18,525,000 plus accrued interest in the Wall Street Bankruptcy Case (the "Wall
19 Street Claim").

20 On May 27, 2010, Wall Street filed that certain *Adversary Complaint* against Rassol in the
21 Bankruptcy Court, Adversary No. 2:10-ap-01950-BR, wherein Wall Street sought to avoid the
22 transfers of the Pledged Interests to Rassol under the Pledge Agreement as actual and constructive
23 fraudulent transfers (the "Rassol Action"). Rassol duly answered the complaint and denies that the
24 transfer of the Pledged Interests to Rassol pursuant to the Pledge Agreement are avoidable as either
25 actual or constructive fraudulent transfers, or otherwise. The Rassol Action remains pending and
26 has not been adjudicated as of the current date. No action was filed concerning the Guaranty or the
27 Trust Deeds.

28

1 On January 29, 2011, the Trustee filed that certain *Complaint to Avoid and Recover*
2 *Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502* against Solomon and
3 Inglewood in the Bankruptcy Court, Adversary No. 2:11-ap-01398-BR, wherein the Trustee sought
4 to recover a pre Namco Petition Date transfer to Solomon and/or Inglewood in the amount of
5 \$26,333.33 (the "Inglewood Action"). Solomon was later dismissed from the Inglewood Action.
6 Inglewood duly answered the complaint and denies that any prepetition transfer to it is avoidable
7 under Sections 547(b), 548(a), 550 and 502 of the Bankruptcy Code, or otherwise. The Inglewood
8 Action remains pending and has not been adjudicated as of the current date.

9 On January 28, 2011, the Trustee filed that certain *Complaint to Avoid and Recover*
10 *Preferential and Fraudulent Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502; and*
11 *for Money Lent and Open Book Account; Claim Disallowance* against Amona in the Bankruptcy
12 Court, Adversary No. 2:11-ap-01383-BR, wherein the Trustee sought to recover a pre Namco
13 Petition Date transfer in the amount of \$4,750,000 and monies allegedly lent to Amona by Namco
14 in the amount of \$1,384,650 (the "Amona Action"). Amona duly answered the complaint and
15 denies that any prepetition transfer to it is avoidable under Sections 547(b), 548(a), 550 and 502 of
16 the Bankruptcy Code, or otherwise. The Amona Action remains pending and has not been
17 adjudicated as of the current date.

18 On January 29, 2011, the Trustee filed that certain *Complaint to Avoid and Recover*
19 *Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502* against Sharaheh
20 Rastegar ("Sharaheh"), Roxana, Mahi, Jessica, Michele, Shabnam, Solomon, and the Trust (the
21 "Rastegar Action"). Sharaheh, Roxana, Mahi, Jessica, Michele, Shabnam, Solomon, and the Trust
22 duly answered the complaint and deny that any prepetition transfer to any of them is avoidable
23 under Sections 547(b), 548(a), 550 and 502 of the Bankruptcy Code, or otherwise. The Rastegar
24 Action remains pending and has not been adjudicated as of the current date.

1 III.

2 **THE PROPOSED TRANSACTIONS CONTEMPLATED**

3 **BY THE AGREEMENT**

4 After good faith negotiations and mediation with David Stern of Klee, Tuchin, Bogdanoff &
5 Stern, LLP, the Parties agreed to compromise and settle certain disputes, on the terms and
6 conditions set forth in the Agreement, subject to the Court's approval. Pursuant to the terms of the
7 Agreement, the Moving Parties request that this Court enter an order approving, and authorizing
8 their execution of and performance under, the Agreement, the material provisions of which are set
9 forth below. The Moving Parties contend that the terms and conditions of the Agreement are fair,
10 reasonable and in the best interests of the estates, creditors and interest holders and a proper
11 exercise of the Moving Parties' business judgment. Accordingly, the Moving Parties request that
12 this Court enter an order granting the Motion in full including, but not limited to, approving the
13 Agreement and the transactions contemplated thereby and authorizing the Moving Parties to
14 execute and perform pursuant to the Agreement.

15 The transaction contemplated by, and the material terms of, the Agreement are:

16 **Allocation of Membership Interests in the LLCs.** Upon the Effective Date of the
17 Agreement, Rassol shall have a seventy percent (70%) membership interest in each of Culver
18 Marina, Buckingham Heights, Watt Leed and McConnel Marina, and Wall Street shall have a thirty
19 percent (30%) membership interest in each of Culver Marina, Buckingham Heights, Watt Leed and
20 McConnel Marina. The operating agreements for Culver Marina, Buckingham Heights, Watt Leed
21 and McConnel Marina shall be amended as necessary to reflect the foregoing membership interests.

22 **Management of the LLCs.** The LLCs shall be managed by a third party mutually
23 acceptable to Rassol and Wall Street or by Rassol with any management fee to be based upon
24 prevailing market rates for such services with such rate to be agreed upon by Rassol and Wall
25 Street. Future distributions to members of the LLCs shall be in accordance with the terms of the
26 applicable operating agreements and as deemed appropriate by the manager.

1 **Division of Current Cash.** Current Cash shall be divided eighty percent (80%) to
2 Rassol and twenty percent (20%) to Wall Street which funds shall be distributed by Wall Street as
3 soon as practicable following the Effective Date.¹

4 **Division of Pentaco Cash.** Pentaco Cash shall be divided sixty percent (60%) to
5 Rassol and forty percent (40%) to Wall Street, which funds shall be distributed by Wall Street
6 following the Effective Date as soon as practicable following receipt by Wall Street of any Pentaco
7 Cash.²

8 **LLC Claims Against Namco.** The bankruptcy schedules of Namco reflect the
9 following amounts owed by Namco to the LLCs: Culver Marina \$479,100.00; Buckingham Heights
10 \$6,117,300.00; Watt Leed \$900,700.00; McConnel Marina \$442,000.00 (the "LLC Claims"). Upon
11 the Effective Date, the LLC Claims shall be assigned to Rassol.

12 **Allowed Claim of Rassol Against Namco.** On the Effective Date, Rassol shall have
13 an allowed claim in the Namco Bankruptcy Case (the "Allowed Rassol Claim") in an amount to be
14 calculated as follows: \$18,525,000 (which amount represents the principal owing under the Rassol
15 Note), *plus* all prepetition accrued, unpaid interest on such amount at the rate of eight percent (8%)
16 per annum as specified in the Rassol Note, *less* \$11,500,000 (which amount represents seventy
17 percent (70%) of the agreed equity value of the LLCs), *less* eighty percent (80%) of the Current
18 Cash, *less* sixty percent (60%) of the Pentaco Cash as later determined, *less* \$793,910.00 (which
19 amount represents the LLC Claims multiplied by ten percent (10%)), *less* \$1,500,000 (which
20 amount represents the agreed upon value of the property secured by the Trust Deeds). The Wall
21 Street Claim shall be withdrawn by Rassol on or about the Effective Date.

22
23
24
25 ¹ "Current Cash" means all cash presently held by Wall Street and the LLCs, without
26 deduction for any past or future Administrative Expenses, *plus* the amount of any Administrative
27 Expenses that have previously been paid by Wall Street and/or the LLCs.

28 ² "Pentaco Cash" means the gross amount of any monies recovered by Wall Street on
account of the transfer of \$735,000 from the LLCs to Pentaco Management prior to the Wall Street
Petition Date.

1 **Distributions on Account of the Allowed Rassol Claim.** The Allowed Rassol
2 Claim shall be treated as an allowed general unsecured claim in the Namco Bankruptcy Case not
3 subject to re-examination, re-characterization or subordination, except as set forth in Section 7
4 above for certain adjustments to be determined at a future date. Rassol shall withdraw the Wall
5 Street Claim on or about the Effective Date of the Agreement.

6 **Sale of LLC Properties.** Prior to the five year anniversary of the Effective Date of
7 the Agreement, the underlying properties owned by the LLCs and/or related ground leases may not
8 be sold for an aggregate gross sale price of less than \$25,000,000, unless Wall Street and Rassol
9 mutually agree to such sale. The operating agreements for Culver Marina, Buckingham Heights,
10 Watt Leed and McConnel Marina shall be amended as necessary to reflect this restriction.
11 Following the expiration of the five year anniversary of the Effective Date, disposition of the
12 underlying properties and/or related ground leases owned by the LLCs shall be in accordance with
13 the terms of the operating agreement for each LLC, as amended.

14 **Refinancing of Existing Notes and Deeds of Trust Against LLC Properties.** The
15 manager of the LLCs shall have the right to cause any or all of the LLCs to borrow money, which
16 money may be secured by the underlying real property of the LLCs. In such event, any net loan
17 proceeds shall be divided seventy percent (70%) to Rassol and thirty percent (30%) to Wall Street,
18 which funds shall be distributed by the manager of the LLC(s) as soon as practicable following
19 receipt of such funds.

20 **Resolution of Adversary Proceedings.** As soon as practicable following the
21 Effective Date, the Parties shall cause the Rassol Action and the Inglewood Action to be dismissed
22 with prejudice and shall cause Roxana, Mahi, Jessica, Michele, Shabnam, Solomon and the Trust to
23 be dismissed with prejudice as parties to the Rastegar Action, leaving Sharaheh as the only
24 defendant in the Rastegar Action. Amona shall stipulate to judgment in the full amount sought in
25 the Amona Action on the terms set forth in that certain *Stipulation for Judgment* attached to the
26 Agreement as Exhibit A. Each Party shall bear their own respective attorneys' fees and costs with
27 respect to each of the herein referenced adversary proceedings. In order to effectuate dismissal of
28 each adversary proceeding, on the Effective Date, Wall Street and the Trustee shall submit to the

1 Bankruptcy Court an order in each of the herein referenced adversary proceedings providing for the
2 dismissal of each such adversary proceeding with prejudice (excepting only the Rastegar Action as
3 it pertains to Sharaheh and the Amona Action), which orders shall reflect that each Party is to bear
4 their own fees and costs. The Parties agree that the Agreement shall constitute, on approval by the
5 Bankruptcy Court, the stipulation required for dismissal under Federal Rule of Civil Procedure 41
6 and Federal Rule of Bankruptcy Procedure 7041 and consequently the Bankruptcy Court may, as
7 herein provided, enter an order dismissing each adversary proceeding.

8 **Release of Claims Asserted by Rastegar Parties.** Excepting only the Allowed
9 Rassol Claim and the rights and obligations arising under the Agreement in favor of the Rastegar
10 Parties (the "Reserved Rastegar Party Claims"), on the Effective Date, each of the Rastegar Parties,
11 acting on their own behalf and on behalf of each of their past and present subsidiaries, predecessors,
12 successors and assigns (the "Rastegar Releasing Parties"), shall release and forever discharge Wall
13 Street, Namco, and the Trustee, and, as the case may be, each and all of their present or former
14 directors, officers, managers, employees, partners, principals, agents, predecessors, successors,
15 assigns, heirs, beneficiaries and attorneys, but not Namvar or any member of the Namvar family
16 (the "Namco Released Parties")(and all of their respective assets), from any and all claims,
17 damages, actions, obligations, attorneys' fees, indemnities, subrogations, duties, demands,
18 controversies and liabilities of every nature, at law and in equity, whether known or unknown,
19 suspected or unsuspected, that the Rastegar Releasing Parties, or any of them, has, had, or may
20 have against the Namco Released Parties, or any of them, arising out of the Rassol Action, the
21 Guaranty, the Trust Deeds, the Inglewood Action, the Amona Action and the Rastegar Action (the
22 "Rastegar Released Claims"). Without in any way limiting the scope of the release, the Rastegar
23 Releasing Parties, and each of them, will covenant with the Namco Released Parties that they will
24 forever refrain from instituting, pursuing or in any way asserting or threatening to assert in any
25 jurisdiction, federal, state or local, or foreign or domestic, any Rastegar Released Claims. The
26 Agreement shall constitute a full and complete defense to any such Rastegar Released Claim or any
27 other proceeding which may be brought by or on behalf of the Rastegar Releasing Parties, or any of
28 them, concerning a Rastegar Released Claim.

1 **Release of Wall Street and Namco Claims.** On the Effective Date, Wall Street,
2 Namco, and the Trustee, and, as the case may be, each and all of their present or former directors,
3 officers, managers, employees, partners, principals, agents, predecessors, successors, assigns, heirs,
4 beneficiaries and attorneys (the "Namco Releasing Parties"), shall release and forever discharge
5 each of the Rastegar Parties other than Amona and, as the case may be, each and all of their present
6 or former trustees, directors, officers, managers, employees, partners, principals, agents,
7 predecessors, successors, assigns, heirs, beneficiaries and attorneys (the "Rastegar Released
8 Parties") (and all of their respective assets), from any and all claims, damages, actions, obligations,
9 attorneys' fees, indemnities, subrogations, duties, demands, controversies and liabilities of every
10 nature, at law and in equity, whether known or unknown, suspected or unsuspected, that the Namco
11 Releasing Parties, or any of them, has, had, or may have against the Rastegar Released Parties, or
12 any of them, arising out of the Rassol Action, the Guaranty, the Trust Deeds, the Inglewood Action,
13 the Amona Action and the Rastegar Action (the "Namco Released Claims") provided, however, that
14 the release does not waive or release any obligations arising under (or claims specifically reserved
15 under) the Agreement (the "Namco Reserved Claims"). For the avoidance of doubt, the release set
16 forth in the Agreement does not release or otherwise affect in any way any claims asserted by the
17 Namco Releasing Parties against Sharareh or Amona (except as otherwise set forth in Exhibit A to
18 the Agreement). Without in any way limiting the scope of the release, the Namco Releasing Parties,
19 and each of them, will covenant with the Rastegar Released Parties that they will forever refrain
20 from instituting, pursuing or in any way asserting or threatening to assert in any jurisdiction,
21 federal, state or local, or foreign or domestic, any Namco Released Claims. The Agreement shall
22 constitute a full and complete defense to any such Namco Released Claim or any other proceeding
23 which may be brought by or on behalf of the Namco Releasing Parties, or any of them, concerning a
24 Namco Released Claim.

1 IV.

2 **THE AGREEMENT SHOULD BE APPROVED UNDER THE**
3 **FOUR PART TEST GOVERNING APPROVAL OF COMPROMISES**

4 Decisional law regarding the exercise of a bankruptcy the court's discretion in determining
5 whether a compromise satisfies the reasonableness standard is "remarkably consistent in
6 establishing that there are but four considerations which a court must address." *In re Grant*
7 *Broadcasting of Philadelphia, Inc.*, 71 B.R. 390, 395 (Bankr. E.D. Pa. 1987). These considerations
8 are:

- 9 (1) the probability of success in the litigation;
10 (2) the complexity of the litigation involved, and the expense, inconvenience and delay
11 necessarily attending it;
12 (3) the likely difficulty in collection; and
13 (4) the paramount interest of creditors.

14 *In re A&C Properties, Inc.*, 784 F.2d 1377, 1381 (9th Cir. 1986). Each of these factors militate in
15 favor of approving the proposed settlement.

16 **THE RASSOL ACTION**

17 In sum, the Moving Parties are not pleased with the outcome of the Rassol Action, but for
18 the reasons set forth herein, the Moving Parties do not believe that they would fair better if the
19 matter went to trial. Under the Agreement, in addition to the 20% membership interests that it
20 already owns, Wall Street will recover additional membership interests in the LLCs equating to
21 10% (a value of approximately \$1.5 million), 20% of the Current Cash (approximately \$240,000)
22 and 40% of the Pentaco Cash (not less than \$210,000).

23 **A. Probability Of Success**

24 As set forth above, by way of the Rassol Action, Wall Street alleged that it could avoid the
25 Pledge Agreement and the transfer of the Pledged Interests, as being both an intentional and a
26 constructive fraudulent transfer. Wall Street believes that the current value of the Pledged Interests
27 is approximately \$12 million.
28

1 In regard to the intentional fraudulent transfer claim, Wall Street must prove that when
2 entering into the Pledge Agreement, the parties had the actual intent to hinder, delay or defraud a
3 creditor of Wall Street. In this regard, it is commonly recognized that it is often impracticable, on
4 direct evidence, to demonstrate actual intent to hinder, delay or defraud creditors. Accordingly, as
5 was done under the common law, courts applying Bankruptcy Code § 548(a)(1), and California
6 Civil Code § 3439.04, infer fraudulent intent from the circumstances surrounding the transfer, and
7 the "badges of fraud." While Wall Street reasonably believes that it could establish several of the
8 badges of fraud concerning the Pledge Agreement, the unfortunate fact is, on the date of the Pledge
9 Agreement, Namco was the only known creditor of Wall Street. Namco, through its principal Ezri
10 Namvar, was a direct participant in the Pledge Agreement, and arguably was benefited by the
11 Pledge Agreement, as the assets of a third party, e.g., Wall Street, were used to secure a debt owed
12 by Namco. Accordingly, Wall Street believes that it is unlikely that it would be able to prevail on a
13 claim that by the Pledge Agreement, Wall Street intended to hinder, delay or defraud Namco.
14 While the parties to the transaction may have intended to hinder, delay or defraud Namco's
15 creditors, those creditors do not fall within the confines of the statutes governing fraudulent
16 transfers, and the Moving Parties are not aware of any decisional authority so expanding the
17 definition of creditors to fit the present context. Finally, there are significant issues concerning the
18 enforceability of Namco's alleged claim against Wall Street, which could result in the claim being
19 completely disallowed, eliminating the intentional fraudulent transfer claim entirely.

20 In regard to the constructive fraudulent transfer claim, among other things, Wall Street must
21 prove that Wall Street was insolvent when the Pledge Agreement was effectuated, or was rendered
22 insolvent as a result of the pledge. After much analysis and discovery, Wall Street was forced to
23 concede that it was not insolvent when the Pledge Agreement was effectuated, and was not rendered
24 insolvent as a result of the pledge. The reason for this is two-fold: 1) at all times relevant hereto,
25 Namco's books and records reflect an obligation owing from Wall Street in the amount of
26 approximately \$12.6 million. With a liability of \$12.6 million against Wall Street, Wall Street was
27 arguably insolvent when the Pledge Agreement was effectuated (Rassol vehemently denies that
28 Wall Street was insolvent). Through the course of discovery in the Rassol Action and upon further

1 analysis, Namco determined that the \$12.6 million claim against Wall Street had to be
2 reduced/written down to approx. \$2.6 million. With this reduction in liabilities, Wall Street cannot
3 establish that it was insolvent when the Pledge Agreement was effectuated. 2) In addition to the
4 value of the LLCs, on the date of the Pledge Agreement, Wall Street owned 100% of the
5 membership interests in Labcog, LLC, which in turn owned real property valued at \$30 million (the
6 value being determined by way of a sale of the underlying real property owned by Labcog for such
7 amount approximately ten days after the pledge transaction closed). Through discovery and upon
8 further analysis, Wall Street determined that there was approximately \$15 million in equity in the
9 Labcog property, which equity would be added to the Wall Street balance sheet, and substantially
10 adding to the solvency of Wall Street on the date of the Pledge Agreement. For these reasons, Wall
11 Street determined that it could not avoid the Pledge Agreement based upon a constructive
12 fraudulent transfer claim.

13 In sum, after much discovery, research and analysis, Wall Street reasonably determined that
14 it was unlikely that it would be able to prevail on either the intentional or constructive fraudulent
15 transfer claims asserted in the Rassol Action.

16 **B. Cost, Complexity and Delay**

17 The second factor that must be considered in evaluating the settlement of the Rassol Action
18 is the expense, complexity, inconvenience and delay caused by the litigation of the pending and
19 threatened litigation and contested matters. Due to, among other things, the complexity of the
20 transactions amongst the parties and the potential unavailability of key witnesses, continued
21 litigation with the Rastegar Parties would cause the Wall Street estate to spend a significant amount
22 of money on attorney's fees and would delay the resolution of these issues for at least a year. To
23 date, the Wall Street estate has incurred fees and costs of approximately \$250,000 litigating the
24 Rassol Action. This amount would likely exceed \$750,000 if the case went to trial and, as set forth
25 above, the likelihood of success is not great. The Agreement avoids all such costs and delays and
26 provides certainty to both the Namco and Wall Street estates.

1 and further analysis, the Trustee has determined that but for a \$400,000 claim against the Trust and
2 the \$39,698.71, the Rastegar Parties have valid ordinary course defenses. As for the \$400,000
3 alleged preferential payment that was not made in the ordinary course, the Trust provided new value
4 of \$500,000 after the alleged preferential transfer, negating that claim as well.

5 **A. Probability of Success**

6 As set forth above, for the non-Sharaheh transfers, the Trustee has determined that the
7 probability of success is very low, based upon well grounded ordinary course and new value
8 defenses. In addition, each of the defendants deny that they are an insider of Namco, and the vast
9 majority of the payments/transfers at issue are outside of the 90 day preference window (but within
10 the one year window).

11 **B. Cost, Complexity and Delay**

12 The Rastegar Parties will not settle the Rassol Action or the other actions discussed herein
13 without the Rastegar Action being resolved as well. Accordingly, if this action is not resolved, the
14 Trustee and Wall Street will be forced to litigate all of the various actions, resulting in complex
15 litigation of extremely difficult/low probability claims, delay, and substantial fees and costs that will
16 otherwise be avoided by the proposed settlement.

17 **C. Difficulty of Collection**

18 For purposes of his analysis of the settlement, the Trustee has assumed that the Rastegar
19 Parties could satisfy any judgment. Notwithstanding, the Rastegar Parties claim that substantially
20 all of their life savings were invested with Namco, making any judgment against them difficult if
21 not impossible to collect. Again, based upon the stated problems/issues with the underlying claims,
22 the Trustee does not believe that this is a significant factor.

23 **D. The Interest of Creditors**

24 As set forth above, the Trustee does not believe that the continued pursuit of the non-
25 Sharaheh claims will result in any affirmative recovery, and pursuit of the pending litigation will be
26 costly. The Trustee submits that the continued pursuit of problematic claims and the costs
27 associated therewith is not in the best interest of creditors.

28

V.

THIS COURT SHOULD EXERCISE ITS DISCRETION

AND APPROVE THE AGREEMENT BETWEEN

THE NAMCO TRUSTEE, WALL STREET AND THE RASTEGAR PARTIES

Here, the settlement contemplated by the Agreement resolves the disputes between the Namco and Wall Street estates, on the one hand, and the Rastegar Parties, on the other, as they relate to the various referenced claims and causes of action.

Compromises that satisfy the "reasonableness standard" should be approved.

Bankruptcy Rule 9019(a) provides that "on motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." By its own terms, Bankruptcy Rule 9019(a) commits the approval or rejection of a compromise to the sound discretion of the Bankruptcy Court.

Sound discretion is judicial power exercised fairly and equitably. As the Supreme Court writes:

the term "discretion" denotes the absence of a hard and fast rule . . . when invoked as a guide to judicial action, it means a sound discretion, that is to say, a discretion exercised not arbitrarily or willfully, but with regard to what is right and equitable under the circumstances and the law, and directed by the reasonableness and conscience of the judge to a just result.

Langnes v. Green, 282 U.S. 531, 541 (1931). Correspondingly, the Ninth Circuit has recognized that "the bankruptcy court has great latitude in approving settlements." *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988).

In determining whether the proposed settlement is "right" in "law," "reason," and "conscience," two principles should guide this Court. First, compromises are "favored in bankruptcy," 10 COLLIER ON BANKRUPTCY, ¶ 9019.01 at 9019-2 (15th Ed. Rev. 2007), and "are a normal part of the reorganization process." *Case v. Los Angeles Lumber Products Company*, 308 U.S. 106, 130, 60 S.Ct. 1 (1939).

Second, settlements should be approved if they fall above the lowest point in the continuum of reasonableness. As the Court of Appeals for the Second Circuit states:

1 [The] responsibility of the bankruptcy judge and ours upon review, is not
2 to decide the numerous questions of law and fact raised by the appellants
3 but rather to canvas the issues and see whether the settlement 'falls below
the lowest point in the range of reasonableness.'

4 *Cosoff v. Rodman, (In re W.T. Grant Company)* 699 F.2d 599, 608 (2nd Cir. 1983). Thus, the
5 question is not whether a better settlement might have been achieved, or a better result if litigation
6 pursued. Instead, the Court should approve settlements which meet a minimal threshold of
7 reasonableness. As one bankruptcy court has pointed out:

8 In assessing a settlement agreement the court is not obliged to determine
9 and rule upon disputed facts and questions of law. Instead, the court's
10 duty is to "canvas the issues" and decide whether the settlement falls
below the nadir in the range of reasonableness.

11 *In re Technology For Energy Corp.*, 56 B.R. 307, 311, 312 (Bankr. E.D. Tenn. 1985).

12 In determining whether to approve a trustee's proposed settlement, the
13 court does not substitute its judgment for that of the trustee . . . instead, the
14 court will, at the hearing on the proposed settlement, canvas the issues and
15 see if the settlement falls below the lowest point in the range of
16 reasonableness . . . the purpose of the hearing is not for the court to
17 determine the numerous issues of law and fact raised by the objectors . . .
what is being sought is not the resolution of issues, but rather the
identification and clarification of the litigation issues so that the Court can
make an informed decision on the reasonableness of the settlement.

18 *In re Bell & Beckwith*, 93 B.R. 569, 574-575 (Bankr. N.D. Ohio 1988).

19 For the reasons explained above, the Moving Parties contend that the proposed compromise
20 which is set forth in the Agreement, is fair, reasonable and in the best interests of the Namco and
21 Wall Street estates and their respective creditors, and should be approved.
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VI.

CONCLUSION

Based on the foregoing, the Moving Parties request that this Court enter an order approving, and authorizing the Moving Parties' execution of and performance under, the Agreement and for such other relief which this Court deems just and proper.

Respectfully submitted,

Dated: November 23, 2011

JEFFER MANGELS BUTLER & MITCHELL LLP

By */s/ David M. Poitras*

David M. Poitras
Attorneys for Bradley D. Sharp, Chapter
11 Trustee for Namco Capital Group,
Inc. and Special Litigation Counsel for
Wall Street Mart, L.P.

DECLARATION OF BRADLEY D. SHARP

I, Bradley D. Sharp, declare:

1. I am the chapter 11 trustee of the bankruptcy estate of Namco Capital Group, Inc. Namco is the general partner of Wall Street. All facts stated herein are known by me to be true through my own personal knowledge, or from my activities and investigation undertaken as Namco's³ chapter 11 trustee or from my review of various books and records, and pleadings filed in the bankruptcy cases, of Namco Capital and Wall Street. If called to testify in this matter, I would and could competently testify thereto in a court of law.

2. This declaration is submitted in support of my request for this Court to approve, and authorize me, as Namco's chapter 11 trustee and Namco as general partner of Wall Street, to perform pursuant to, that *Settlement Agreement* (the "Agreement") a copy of which is attached hereto as Exhibit 1.

3. The factual allegations in support of the Motion are set forth in Section II, and in particular, pages 4 to 6 of the Motion. I have reviewed and discussed these facts with my counsel and based upon such review and discussions, including the review of certain of Namco's and Wall Street's books and records, such factual recitations are true and correct to the best of my knowledge information and belief. Based upon such facts and the advice of my counsel as to the legal issues presented, I believe that it is in the best interests of the Namco estate and the Wall Street estate for the Agreement to be approved, for at least the following reasons.

³ All undefined terms herein shall have the same definitions as ascribed to them in the preceding Motion and Memorandum of Points and Authorities.

THE RASSOL ACTION

1
2 4. While Wall Street reasonably believes that it could establish several of the badges of
3 fraud concerning the Pledge Agreement, the unfortunate fact is, on the date of the Pledge
4 Agreement, Namco was the only known creditor of Wall Street.

5 5. Namco, through its principal Ezri Namvar, was a direct participant in the Pledge
6 Agreement, and Namco arguably was benefited by the Pledge Agreement, as the assets of a third
7 party, e.g., Wall Street, were used to secure a debt owed by Namco.

8
9 6. Accordingly, Wall Street believes that it is unlikely that it would be able to prevail
10 on a claim that by the Pledge Agreement, Wall Street intended to hinder, delay or defraud Namco.

11 7. While the parties to the transaction may have intended to hinder, delay or defraud
12 Namco's creditors, after consultation with my counsel, I am informed and believe Namco's
13 creditors do not fall within the confines of the statutes governing fraudulent transfers by Wall
14 Street, and I am not aware of any decisional authority so expanding the definition of creditors to fit
15 the present context.

16
17 8. Finally, there are material issues concerning the enforceability of Namco's alleged
18 claim against Wall Street, which could result in the claim being completely disallowed, eliminating
19 the intentional fraudulent transfer claim entirely.

20 9. In regard to the constructive fraudulent transfer claim, after much analysis and
21 discovery, Wall Street was forced to concede that it was not insolvent when the Pledge Agreement
22 was effectuated, and was not rendered insolvent as a result of the pledge.

23
24 10. The reason for this is two-fold. At all times relevant hereto, Namco's books and
25 records reflect an obligation owing from Wall Street in the amount of approximately \$12.6 million.
26 With a liability of \$12.6 million against Wall Street, Wall Street was arguably insolvent when the
27 Pledge Agreement was effectuated (Rassol vehemently denies that Wall Street was insolvent).
28

1 11. Through the course of discovery in the Rassol Action and upon further analysis,
2 Namco determined that the \$12.6 million claim against Wall Street had to be reduced/written down
3 to approx. \$2.6 million. With this reduction in liabilities, Wall Street cannot establish that it was
4 insolvent when the Pledge Agreement was effectuated.

5 12. In addition to the value of the LLCs, on the date of the Pledge Agreement, Wall
6 Street owned 100% of the membership interests in Labcog, LLC, which in turn owned real property
7 valued at \$30 million (the value being determined by way of a sale of the underlying real property
8 owned by Labcog for such amount approximately ten days after the pledge transaction closed).

9 13. Through discovery and upon further analysis, Namco and Wall Street determined
10 that there was approximately \$15 million in equity in the Labcog property, which equity would be
11 added to the Wall Street balance sheet, and substantially adding to the solvency of Wall Street on
12 the date of the Pledge Agreement.

13 14. For the above reasons, Wall Street determined that it could not avoid the Pledge
14 Agreement based upon a constructive fraudulent transfer claim.

15 15. Due to, among other things, the complexity of the transactions amongst the parties
16 and the potential unavailability of key witnesses, continued litigation with the Rastegar Parties
17 would cause the Wall Street estate to spend a significant amount of money on attorney's fees and
18 would delay the resolution of these issues for at least a year. To date, the Wall Street estate has
19 incurred fees and costs of approximately \$250,000 litigating the Rassol Action. This amount would
20 likely exceed \$750,000 if the case went to trial and, as set forth above, the likelihood of success is
21 not great.
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THE INGLEWOOD ACTION

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2 16. The Inglewood Action is an action for the Namco estate to recover \$26,333.33 as a
3 preferential transfer to or for the benefit of Solomon and/or Inglewood. Solomon was previously
4 dismissed from the Inglewood Action, leaving Inglewood as the sole defendant. Under the
5 Agreement, if approved by the Court, the Inglewood Action will be dismissed with prejudice with
6 no direct recovery by Namco.
7

8 17. The transfer at issue is relatively small and was made over eleven months prior to the
9 Namco Petition Date. In order for Namco to prevail, Namco would have to prove that Inglewood
10 was an "insider" of Namco. While Namco reasonably believes that it would prevail on the insider
11 issue, and defeated a motion to dismiss by Inglewood on this very issue, the final outcome is far
12 from certain. Moreover, as part of its overall defense to this action and others, Inglewood and the
13 other Rastegar Parties have asserted ordinary course and solvency defenses, which, at a minimum,
14 would be expensive to litigate. In sum, for the amount at issue and in the context of the overall
15 settlement between the various parties, I believe that it is in the best interests of the Namco estate to
16 dismiss the Inglewood Action.
17

18 18. Further, I believe that it could easily cost the Namco estate more than \$26,000 to
19 litigate the Inglewood Action. On that basis alone, I submit that there is ample justification to
20 dismiss the Inglewood Action.
21

22 19. Due to the dollar amount involved and based upon the foregoing, I submit that
23 difficulty in collection is not a significant factor. For purposes of analyzing the settlement, I
24 assumed that the amount was collectable; regardless, I believe that dismissal is in the best interests
25 of the Namco estate.
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THE AMONA ACTION

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2 20. The Amona Action is a preference and account receivable action, seeking the
3 recovery of \$6,134,650 from Amona. Amona is a California corporation. Amona is owned 50% by
4 members of the Rastegar family and 50% by three of Ezri Namvar's four children.

5
6 21. Through discovery, my counsel and I learned that Amona has only two assets,
7 undeveloped real property in Nevada. Each property is encumbered by one of the Trust Deeds in
8 favor of Rassol referenced above in connection with the Wishlab and LaBrea Guaranty. There is no
9 equity in the properties over and above the Trust Deeds. My counsel and I have analyzed the Trust
10 Deeds and potential claims to avoid the Deeds of Trust, and have determined that there is no *bona*
11 *fide* legal or factual basis to avoid the Trust Deeds. Accordingly, it appears that Amona is judgment
12 proof, and further expenditures of legal fees to pursue the Amona Action is not in the best interest
13 of the Namco estate. Under the Agreement, Namco will receive a Stipulated Judgment against
14 Amona in the amount of \$6,134,650, in the form attached as Exhibit A to the Agreement.
15 Notwithstanding, for the reasons set forth above, it is unlikely that Namco will ever collect anything
16 on the Stipulated Judgment.

17
18 22. As set forth above, based upon discovery and further analysis, my counsel and I
19 believe that any judgment against Amona is not collectable, and will likely be foreclosed out by the
20 Trust Deeds. The Stipulated Judgment is intended to provide a limited safeguard in the event that it
21 later turns out that the Trust Deeds do not foreclose out Namco's position. In sum, the proposed
22 settlement is the best the Namco estate could do if it litigated the Amona Action to conclusion and
23 prevailed on all counts.
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THE RASTEGAR ACTION

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2 23. The Rastegar Action is a preference action seeking the recovery of \$2,095,969.98
3 against Sharaheh, \$474,640.58 against Roxana, \$43,038.89 against Mahi, \$82,335.59 against
4 Jessica, \$86,934.47 against Michele, \$122,381.97 against Shabnam, \$39,698.71 against Solomon
5 and \$735,100.58 against the Rastegar Family Trust. Schedules setting forth the dates and amounts
6 of the foregoing payments are attached hereto collectively as Exhibit 2.

7
8 24. As set forth above and in the Agreement, the Agreement does not affect the
9 \$2,095,969.98 claim against Sharaheh, albeit Sharaheh died in October 2011. For the balance of the
10 payments alleged to be preferential, through discovery and further analysis, my counsel and I have
11 determined that but for a \$400,000 claim against the Trust and the \$39,698.71 against Solomon, the
12 Rastegar Parties appear to have valid ordinary course defenses. As for the \$400,000 alleged
13 preferential payment that was not made in the ordinary course, the Trust provided new value of
14 \$500,000 after the alleged preferential transfer, negating that claim as well.
15

16 25. As set forth above, for the non-Sharaheh transfers, my counsel and I have determined
17 that the probability of success is very low, based upon well grounded ordinary course and new value
18 defenses. In addition, each of the defendants deny that they are an insider of Namco, and the vast
19 majority of the payments/transfers at issue are outside of the 90 day preference window (but within
20 the one year window).
21

22 26. I am informed and believe that the Rastegar Parties will not settle the Rassol Action
23 or the other actions discussed herein without the Rastegar Action being resolved as well.
24 Accordingly, if this action is not resolved, Namco and Wall Street will be forced to litigate all of the
25 various actions, resulting in complex litigation of extremely difficult/low probability claims, delay,
26 and substantial fees and costs that will otherwise be avoided by the proposed settlement.
27
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EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made as of this 23rd day of November, 2011, by and among Wall Street Mart, L.P., a California limited partnership ("Wall Street"), Namco Capital Group, Inc., a California corporation ("Namco"), by and through Bradley D. Sharp in his capacity as the duly appointed Chapter 11 trustee of Namco (the "Trustee"), Rassol, LLC, a Delaware limited liability company ("Rassol"), Amona Investments, Inc., a California corporation ("Amona"), Inglewood Investment Company, Inc., a California corporation ("Inglewood"), The Rastegar Family Trust ("Trust"), Solomon Rastegar, an individual ("Solomon"), Roxana Rastegar, an individual ("Roxana"), Mahi Rastegar, an individual ("Mahi"), Jessica Kimiabakhash, an individual ("Jessica"), Michele Kimiabakhash, an individual ("Michele"), and Shabnam Kimiabakhash, an individual ("Shabnam"). Wall Street, Namco, the Trustee, Rassol, Amona, Inglewood, Trust, Solomon, Roxana, Mahi, Jessica, Michele and Shabnam are sometimes referred to hereinafter as the "Parties" or a "Party" and Rassol, Amona, Inglewood, Trust, Solomon, Roxana, Mahi, Jessica and Shabnam are sometimes referred to hereinafter collectively as the "Rastegar Parties").

RECITALS

A. On November 20, 2009 (the "Wall Street Petition Date"), Wall Street filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code ("Bankruptcy Code") in the United States Bankruptcy Court for the Central District of California, Los Angeles Division ("Bankruptcy Court"), Case No. 2:09-42717-BR (the "Wall Street Bankruptcy Case").

B. An involuntary petition under Chapter 11 of title 11 of the United States Code ("Bankruptcy Code") was filed against Namco in the Bankruptcy Court on December 22, 2008 (the "Namco Petition Date"), Case No. 2:08-32333-BR (the "Namco Bankruptcy Case"). An order for relief under Chapter 11 of the Bankruptcy Code was entered in the Namco Bankruptcy Case on January 29, 2009. By order of the Bankruptcy Court entered May 8, 2009, Bradley D. Sharp was appointed as the Chapter 11 trustee of Namco.

B. Prior to the Petition Date, Namco was primarily engaged in the business of borrowing money from individuals and then either (i) lending such funds to third parties, which loans were typically secured by real property or (ii) investing such funds in real property.

C. Between 2005 and 2008, Namco borrowed (and partially repaid) various sums of money from the Rastegar Parties pursuant to certain unsecured promissory notes (the "Rastegar Notes"). As of August 22, 2008, the aggregate amount owed to the Rastegar Parties under the Rastegar Notes was approximately \$18,525,000.

D. On or before August 22, 2008, certain of the Rastegar Parties assigned the Rastegar Notes to Rassol. Thereafter, Namco and Ezri Namvar ("Namvar") executed that certain Secured Promissory Note dated as of August 22, 2008 in favor of Rassol in the amount of \$18,525,000 (the "Rassol Note"), and the Rastegar Notes were canceled. As security for the Rassol Note, Namvar caused Wall Street to execute that certain Pledge And Security Agreement dated as of August 22, 2008 (the "Pledge Agreement"), pursuant to which Wall Street pledged to Rassol, eighty percent (80%) of Wall Street's membership interests (the "Pledged Interests") in

Culver Marina Lease, LLC, a California limited liability company ("Culver Marina"), Buckingham Heights Lease, LLC, a California limited liability company ("Buckingham Heights"), Watt Leed Lease, LLC, a California limited liability company ("Watt Leed"), and McConnel Marina Lease, LLC, a California limited liability company ("McConnel Marina") (collectively referred to hereinafter as the "LLCs"). After the execution of the Pledge Agreement, Wall Street retained the remaining twenty percent (20%) of the membership interests in the LLCs. To further secure the Rassol Note, on or about August 22, 2008, Namvar caused 780B LaBrea, LLC, a Delaware limited liability company ("LaBrea"), Wishlab 90 Nevada, LLC, a Delaware limited liability company ("Wishlab"), Arlington 360 Associates, L.P., a Texas limited partnership ("Arlington"), and Bruton Buckner Associates, L.P., a Texas limited partnership ("Bruton") to execute that certain Multi-Party Guaranty (the "Guaranty") for the benefit of Rassol dated as of August 22, 2008 and to execute deeds of trust against certain real property owned by LaBrea, Wishlab, Arlington and Bruton (the "Trust Deeds").

E. Namco defaulted on its obligations under the Rassol Note and on April 7, 2009, Rassol filed proof of claim number 86 in the amount of \$18,525,000 plus accrued interest in the Namco Bankruptcy Case (the "Namco Claim"). On June 28, 2010, Rassol filed proof of claim number 4 in the amount of \$18,525,000 plus accrued interest in the Wall Street Bankruptcy Case (the "Wall Street Claim").

F. On May 27, 2010, Wall Street filed that certain *Adversary Complaint* against Rassol in the Bankruptcy Court, Adversary No. 2:10-ap-01950-BR, wherein Wall Street sought to avoid the transfers of the Pledged Interests to Rassol under the Pledge Agreement as actual and constructive fraudulent transfers (the "Rassol Action"). Rassol duly answered the complaint and denies that the transfer of the Pledged Interests to Rassol pursuant to the Pledge Agreement are avoidable as either actual or constructive fraudulent transfers, or otherwise. The Rassol Action remains pending and has not been adjudicated as of the date of this Settlement Agreement. No action was filed concerning the Guaranty or the Trust Deeds.

G. On January 29, 2011, the Trustee filed that certain *Complaint to Avoid and Recover Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502* against Solomon and Inglewood in the Bankruptcy Court, Adversary No. 2:11-ap-01398-BR, wherein the Trustee sought to recover a pre Namco Petition Date transfer to Solomon and/or Inglewood in the amount of \$26,333.33 (the "Inglewood Action"). Solomon was later dismissed from the Inglewood Action. Inglewood duly answered the complaint and denies that any prepetition transfer to it is avoidable under Sections 547(b), 548(a), 550 and 502 of the Bankruptcy Code, or otherwise. The Inglewood Action remains pending and has not been adjudicated as of the date of this Settlement Agreement.

H. On January 28, 2011, the Trustee filed that certain *Complaint to Avoid and Recover Preferential and Fraudulent Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502; and for Money Lent and Open Book Account; Claim Disallowance* against Amona in the Bankruptcy Court, Adversary No. 2:11-ap-01383-BR, wherein the Trustee sought to recover a pre Namco Petition Date transfer in the amount of \$4,750,000 and monies allegedly lent to Amona by Namco in the amount of \$1,384,650 (the "Amona Action"). Amona duly answered the complaint and denies that any prepetition transfer to it is avoidable under Sections 547(b),

548(a), 550 and 502 of the Bankruptcy Code, or otherwise. The Amona Action remains pending and has not been adjudicated as of the date of this Settlement Agreement.

I. On January 29, 2011, the Trustee filed that certain *Complaint to Avoid and Recover Preferential Transfers Pursuant to 11 U.S.C. §§ 547(b), 548(a), 550 and 502* against Sharaheh Rastegar ("Sharaheh"), Roxana, Mahi, Jessica, Michele, Shabnam, Solomon, and the Trust (the "Rastegar Action"). Sharaheh, Roxana, Mahi, Jessica, Michele, Shabnam, Solomon, and the Trust duly answered the complaint and deny that any prepetition transfer to any of them is avoidable under Sections 547(b), 548(a), 550 and 502 of the Bankruptcy Code, or otherwise. The Rastegar Action remains pending and has not been adjudicated as of the date of this Settlement Agreement.

J. After good faith negotiations and mediation, the Parties have agreed to compromise and settle the disputes concerning the Rassol Action, the Guaranty, the Trust Deeds, the Inglewood Action, the Amona Action and the Rastegar Action, on the terms and conditions set forth in this Settlement Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually covenanted and agreed by the Parties as follows, subject to Bankruptcy Court approval, which the Trustee and Wall Street agree to exert their best efforts to obtain:

AGREEMENT

1. **Definitions.** For purposes of this Settlement Agreement, all terms not otherwise defined herein are defined as follows:

a. "**Administrative Expenses**" means all administrative and professional fees and expenses associated with the Namco Bankruptcy Case (including, without limitation, the Rastegar Action, the Amona Action, and the Inglewood Action) or the Wall Street Bankruptcy Case (including, without limitation, the Rassol Action).

b. "**Effective Date**" means the first date on which each of the following has occurred: (i) the Parties have executed this Settlement Agreement where indicated below; and (ii) the Bankruptcy Court has entered a Final Order, which order shall be in form and substance reasonably acceptable to the Parties, approving this Settlement Agreement pursuant to Bankruptcy Rule 9019. If the Effective Date does not occur within six months after the date first set forth above, unless such date is extended by a writing signed by all Parties prior to the expiration of the six month period, then this Settlement Agreement shall become null and void, and the Parties shall be returned to the *status quo ante* as if this Settlement Agreement had never been executed, including the recitals herein.

c. "**Final Order**" means an order, decree or judgment of the Bankruptcy Court, the operation or effect of which has not been reversed, stayed, modified or amended, and as to which order, decree or judgment (or any revision, modification or amendment thereof), the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for

review or rehearing has been taken or is pending. A Final Order shall also consist of an order as to which an appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, or the time to do any of the foregoing has not yet expired, but as to which the Parties, in their sole and absolute discretion, elect to proceed with the Effective Date.

d. "**Current Cash**" means all cash presently held by Wall Street and the LLCs, without deduction for any past or future Administrative Expenses, *plus* the amount of any Administrative Expenses that have previously been paid by Wall Street and/or the LLCs.

e. "**Pentaco Cash**" means the gross amount of any monies recovered by Wall Street on account of the transfer of \$735,000 from the LLCs to Pentaco Management prior to the Wall Street Petition Date.

2. **Allocation of Membership Interests in the LLCs.** Upon the Effective Date of this Settlement Agreement, Rassol shall have a seventy percent (70%) membership interest in each of Culver Marina, Buckingham Heights, Watt Leed and McConnel Marina, and Wall Street shall have a thirty percent (30%) membership interest in each of Culver Marina, Buckingham Heights, Watt Leed and McConnel Marina. The operating agreements for Culver Marina, Buckingham Heights, Watt Leed and McConnel Marina shall be amended as necessary to reflect the foregoing membership interests.

3. **Management of the LLCs.** The LLCs shall be managed by a third party mutually acceptable to Rassol and Wall Street or by Rassol with any management fee to be based upon prevailing market rates for such services with such rate to be agreed upon by Rassol and Wall Street. Future distributions to members of the LLCs shall be in accordance with the terms of the applicable operating agreements and as deemed appropriate by the manager.

4. **Division of Current Cash.** Current Cash shall be divided eighty percent (80%) to Rassol and twenty percent (20%) to Wall Street which funds shall be distributed by Wall Street as soon as practicable following the Effective Date.

5. **Division of Pentaco Cash.** Pentaco Cash shall be divided sixty percent (60%) to Rassol and forty percent (40%) to Wall Street, which funds shall be distributed by Wall Street following the Effective Date as soon as practicable following receipt by Wall Street of any Pentaco Cash.

6. **LLC Claims Against Namco.** The bankruptcy schedules of Namco reflect the following amounts owed by Namco to the LLCs: Culver Marina \$479,100.00; Buckingham Heights \$6,117,300.00; Watt Leed \$900,700.00; McConnel Marina \$442,000.00 (the "**LLC Claims**"). Upon the Effective Date, the LLC Claims shall be assigned to Rassol.

7. **Rassol Proofs of Claim Against Namco and Wall Street.** On the Effective Date, Rassol shall have an allowed claim in the Namco Bankruptcy Case (the "**Allowed Rassol Claim**") in an amount to be calculated as follows: \$18,525,000 (which amount represents the principal owing under the Rassol Note), *plus* all prepetition accrued, unpaid interest on such amount at the rate of eight percent (8%) per annum as specified in the Rassol Note, *less* \$11,500,000 (which amount represents seventy percent (70%) of the agreed equity value of the

LLCs), *less* eighty percent (80%) of the Current Cash, *less* sixty percent (60%) of the Pentaco Cash as later determined, *less* \$793,910.00 (which amount represents the LLC Claims multiplied by ten percent (10%)), *less* \$1,500,000 (which amount represents the agreed upon value of the property secured by the Trust Deeds). The Wall Street Claim shall be withdrawn by Rassol on or about the Effective Date.

8. Distributions on Account of the Allowed Rassol Claim. The Allowed Rassol Claim shall be treated as an allowed general unsecured claim in the Namco Bankruptcy Case not subject to re-examination, re-characterization or subordination, except as set forth in Section 7 above for certain adjustments to be determined at a future date.

9. Sale of LLC Properties. Prior to the five year anniversary of the Effective Date, the underlying properties owned by the LLCs and/or related ground leases may not be sold for an aggregate gross sale price of less than \$25,000,000, unless Wall Street and Rassol mutually agree to such sale. The operating agreements for Culver Marina, Buckingham Heights, Watt Leed and McConnel Marina shall be amended as necessary to reflect this restriction. Following the expiration of the five year anniversary of the Effective Date, disposition of the underlying properties and/or related ground leases owned by the LLCs shall be in accordance with the terms of the operating agreement for each LLC, as amended.

10. Refinancing of Existing Notes and Deeds of Trust Against LLC Properties. The manager of the LLCs shall have the right to cause any or all of the LLCs to borrow money, which money may be secured by the underlying real property of the LLCs. In such event, any net loan proceeds shall be divided seventy percent (70%) to Rassol and thirty percent (30%) to Wall Street, which funds shall be distributed by the manager of the LLC(s) as soon as practicable following receipt of such funds.

11. Resolution of Adversary Proceedings. As soon as practicable following the Effective Date, the Parties shall cause the Rassol Action and the Inglewood Action to be dismissed with prejudice and shall cause Roxana, Mahi, Jessica, Michele, Shabnam, Solomon and the Trust to be dismissed with prejudice as parties to the Rastegar Action, leaving Sharaheh as the only defendant in the Rastegar Action. Amona shall stipulate to judgment in the full amount sought in the Amona Action on the terms set forth in that certain *Stipulation for Judgment* attached to this Settlement Agreement as Exhibit A. As set forth in Section 20 below, each Party shall bear their own respective attorneys' fees and costs with respect to each of the herein referenced adversary proceedings. In order to effectuate dismissal of each adversary proceeding, on the Effective Date, Wall Street and the Trustee shall submit to the Bankruptcy Court an order in each of the herein referenced adversary proceedings providing for the dismissal of each such adversary proceeding with prejudice (excepting only the Rastegar Action as it pertains to Sharaheh and the Amona Action), which orders shall reflect that each Party is to bear its own fees and costs. The Parties agree that this Settlement Agreement shall constitute, on approval by the Bankruptcy Court and the occurrence of the Effective Date, the stipulation required for dismissal under Federal Rule of Civil Procedure 41 and Federal Rule of Bankruptcy Procedure 7041 and consequently the Bankruptcy Court may, as herein provided, enter an order dismissing each adversary proceeding.

12. Release of Claims Asserted by Rastegar Parties. Excepting only the Allowed Rassol Claim, the LLC Claims and the rights and obligations arising under this Settlement Agreement in favor of the Rastegar Parties (the "Reserved Rastegar Party Claims"), on the Effective Date, each of the Rastegar Parties, acting on their own behalf and on behalf of each of their past and present subsidiaries, predecessors, successors and assigns (the "Rastegar Releasing Parties"), shall and do hereby, release and forever discharge Wall Street, Namco, and the Trustee, and, as the case may be, each and all of their present or former directors, officers, managers, employees, partners, principals, agents, predecessors, successors, assigns, heirs, beneficiaries and attorneys, but not Namvar or any member of the Namvar family (the "Namco Released Parties") (and all of their respective assets), from any and all claims, damages, actions, obligations, attorneys' fees, indemnities, subrogations, duties, demands, controversies and liabilities of every nature, at law and in equity, whether known or unknown, suspected or unsuspected, that the Rastegar Releasing Parties, or any of them, has, had, or may have against the Namco Released Parties, or any of them, arising out of the Rassol Action, the Guaranty, the Trust Deeds, the Inglewood Action, the Amona Action and the Rastegar Action (the "Rastegar Released Claims"). Without in any way limiting the scope of the foregoing release, the Rastegar Releasing Parties, and each of them, covenant with the Namco Released Parties that they will forever refrain from instituting, pursuing or in any way asserting or threatening to assert in any jurisdiction, federal, state or local, or foreign or domestic, any Rastegar Released Claims. This Settlement Agreement shall constitute a full and complete defense to any such Rastegar Released Claim or any other proceeding which may be brought by or on behalf of the Rastegar Releasing Parties, or any of them, concerning a Rastegar Released Claim.

13. Release of Wall Street and Namco Claims. On the Effective Date, Wall Street, Namco, and the Trustee, and, as the case may be, each and all of their present or former directors, officers, managers, employees, partners, principals, agents, predecessors, successors, assigns, heirs, beneficiaries and attorneys (the "Namco Releasing Parties"), shall and do hereby, release and forever discharge each of the Rastegar Parties other than Amona and, as the case may be, each and all of their present or former trustees, directors, officers, managers, employees, partners, principals, agents, predecessors, successors, assigns, heirs, beneficiaries and attorneys (the "Rastegar Released Parties") (and all of their respective assets), from any and all claims, damages, actions, obligations, attorneys' fees, indemnities, subrogations, duties, demands, controversies and liabilities of every nature, at law and in equity, whether known or unknown, suspected or unsuspected, that the Namco Releasing Parties, or any of them, has, had, or may have against the Rastegar Released Parties, or any of them, arising out of the Rassol Action, the Guaranty, the Trust Deeds, the Inglewood Action, the Amona Action and the Rastegar Action (the "Namco Released Claims") provided, however, that this release does not waive or release any obligations arising under (or claims specifically reserved under) this Settlement Agreement (the "Namco Reserved Claims"). For the avoidance of doubt, the release set forth herein does not release or otherwise affect in any way any claims asserted by the Namco Releasing Parties against Sharareh or Amona (except as otherwise set forth in Exhibit A). Without in any way limiting the scope of the foregoing release, the Namco Releasing Parties, and each of them, covenant with the Rastegar Released Parties that they will forever refrain from instituting, pursuing or in any way asserting or threatening to assert in any jurisdiction, federal, state or local, or foreign or domestic, any Namco Released Claims. This Settlement Agreement shall constitute a full and complete defense to any such Namco Released Claim or any other

proceeding which may be brought by or on behalf of the Namco Releasing Parties, or any of them, concerning a Namco Released Claim.

14. Waiver of Civil Code § 1542. The Rastegar Releasing Parties and the Namco Releasing Parties are referred to collectively hereinafter as the "Releasing Parties" and the Rastegar Reserved Claims and the Namco Reserved Claims are referred to collectively as the "Reserved Claims". By this Settlement Agreement, the Releasing Parties, and each of them expressly waive and relinquish any and all protections provided under section 1542 of the California Civil Code and any all similar rights, rules, regulations, and provisions of the laws of other state and federal jurisdictions, as such pertains to the Rastegar Released Claims and the Namco Released Claims only. Each of the Releasing Parties represents, acknowledges and agrees that it has been advised by its legal counsel of, and is familiar with, and understands the effect of section 1542 of the California Civil Code, 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."

Each of the Releasing Parties is aware that hereafter it may discover claims presently unknown or undisclosed to it, facts in addition to or different from those which it now knows or believes to be true, and/or claims in its favor of which such releasing party currently is unaware. Nevertheless, by this Settlement Agreement, each of the Releasing Parties (i) expressly intends for all of such claims included within the definitions of the Rastegar Released Claims and the Namco Released Claims, if any, to be included within the scope of the foregoing releases and such releases constitute a full, complete, voluntary, absolute, and general release of all such claims; and (ii) expressly acknowledges that its waiver and relinquishment of rights under section 1542 of the California Civil Code and all similar rights, rules, regulations, and provisions is an essential element of the consideration provided to the Released Parties by this Settlement Agreement and that, without such waiver and relinquishment, the Released Parties would not have executed this Settlement Agreement or agreed to its terms.

15. Mutual Representations, Covenants and Warranties. Each of the Parties represents, warrants and agrees with the other Parties as follows:

a. Independent Advice. It has received independent legal advice from its attorneys with respect to each of the matters contained herein, including the advisability of making the settlement provided for herein, the advisability of executing this Settlement Agreement and the meaning of California Civil Code § 1542.

b. Reliance. Except as expressly stated in this Settlement Agreement, neither it nor any of its officers, members, managers, agents, partners, employees, representatives, or attorneys has made any statement or representation to any other Party regarding any fact relied upon in entering into this Settlement Agreement, and it is not relying upon any statement, representation or promise of any other Party (or of any officer, agent, employee, representative, or attorney for any other Party) in executing this Settlement Agreement.

c. **Diligence and Investigation.** It has made such investigation of the facts pertaining to this settlement and this Settlement Agreement and of all the matters pertaining thereto as it deems necessary.

d. **Understanding.** It has read this Settlement Agreement and understands the contents hereof.

e. **No Assignment.** There has been no assignment, sale or transfer, by operation of law or otherwise, of any claim, right, cause of action, demand, obligation, liability or interest released by it as provided herein.

f. **Authority.** It has full and complete authority to enter into and execute this Settlement Agreement under the terms set forth herein.

16. **Representation of Wall Street Concerning Current Cash.** In addition to the above representations, Wall Street further represents that, as of the date hereof, that the aggregate amount of Current Cash is not less than \$1,191,150.52.

17. **No Adverse Construction or Admission.** This Settlement Agreement and the releases and other terms provided for herein are made, executed, given and accepted as part of a compromise and settlement of disputed claims. No provision(s) of this Settlement Agreement, nor any acceptance of the benefits thereof by or on behalf of any of the Parties, shall be construed or deemed to be evidence of an admission of any fact, matter, thing or liability of any kind to any other Party. Each of the Parties deny any liability of any kind to any other Party for any purpose, and this settlement is made solely and entirely as a compromise and for the purpose of fully and finally resolving the disputed matters referred to herein. Neither this Settlement Agreement nor any term(s) thereof shall be offered or received as evidence in any proceeding in any forum as an admission of any liability or wrongdoing on the part of any of the Parties.

18. **Binding on Successors and Assigns.** This Settlement Agreement shall be binding not only upon the Parties, but, as the case may be, also upon their heirs, assigns, beneficiaries, holders in due course, representatives, trustees, affiliates, principals, agents, shareholders, officers, directors, employees, and all other successors-in-interest. The releases given herein shall survive any termination of this Settlement Agreement after the Effective Date.

19. **Entire Agreement; Amendment.** The Settlement Agreement, and any attachments or exhibits hereto, sets forth the entire understanding between and among the Parties relating to the subject matter contained herein and supersedes all previous oral or written proposals, negotiations, representations, or understandings concerning the subject matter. The Settlement Agreement may not be modified, amended or discharged except by a subsequent written agreement signed by all of the Parties. Each Party expressly disclaims any right to enforce or claim the effectiveness of any oral modification of the Settlement Agreement based upon a course of dealing, waiver, reliance, estoppel or other similar theory of law.

20. **Waiver of Costs.** Each Party shall be responsible for its own attorneys' fees and any other costs incurred and/or accrued by it in connection with the matters related hereto and the Wall Street Bankruptcy Case, the Namco Bankruptcy Case, the Rassol Action, the Inglewood

Action, the Amona Action and the Rastegar Action and each Party specifically waives any and all claim(s) against any other Party hereto for the recovery of the same.

21. Attorneys' Fees. In the event of any action or proceeding brought by any Party against another Party to enforce or to interpret this Settlement Agreement, the prevailing Party shall be entitled to recover all reasonable costs and expenses including its attorneys' fees and experts' fees and costs in such action or proceeding. The prevailing Party shall be determined by the court or mediator based upon an assessment of which Party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed on major disputed issues in the court's decision. If the Party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of such other Party, then such other Party shall be deemed the prevailing Party.

22. Bankruptcy Court Jurisdiction and Applicable Law. Each Party consents to the exclusive jurisdiction of the Bankruptcy Court over any matter, action, or proceeding relating to this Settlement Agreement, including any proceeding brought in connection with this Settlement Agreement, and agrees that the Bankruptcy Court shall be the exclusive forum to hear, determine, and enter appropriate orders and judgments in all such matters, actions, or proceedings, provided, however, that in the event the Bankruptcy Court refuses to exercise jurisdiction over any proceeding related to or concerning this Settlement Agreement, the Parties consent to the jurisdiction of any state or federal court located in Los Angeles County, California that may properly exercise jurisdiction over any such proceeding. This Settlement Agreement shall be governed in all respects, including validity, interpretation, and effect, by the Bankruptcy Code and the laws of the State of California, without giving effect to the principles of choice of law or conflicts of law thereof. The Parties hereto irrevocably waive any right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Settlement Agreement or the transactions contemplated hereby. Notwithstanding anything contained in this Section, all disputes involving matters arising in connection with this Settlement Agreement will be brought as contested matters and not adversary proceedings.

23. Rules of Construction. The Parties, including their counsel, have participated in the preparation of this Settlement Agreement, and this Settlement Agreement is the result of the joint efforts of the Parties. This Settlement Agreement has been accepted and approved as to its final form by all Parties and upon the advice of their respective counsel. Accordingly, any uncertainty or ambiguity existing in this Settlement Agreement shall not be interpreted against any Party as a result of the manner of the preparation of this Settlement Agreement. Each Party to this Settlement Agreement agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Settlement Agreement and are hereby waived.

24. No Third Parties Benefitted. Except for the releases that extend to the Parties, this Settlement Agreement is made for the sole benefit and protection of the Parties hereto and the successors and assigns of each Party, and no other person shall have any right of action or right to rely thereon, and the Parties hereto agree that nothing contained in this Settlement Agreement shall be construed to vest in any other person or entity, any interest in or claim upon the rights and interests of the Parties hereunder or in any proceeds thereof.

25. **Non-Waiver.** No waiver of any of the provisions of this Settlement Agreement shall be deemed or shall constitute a waiver of other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

26. **Time.** Time is of the essence in this Settlement Agreement.

27. **Headings.** Headings contained in this Settlement Agreement are for reference purposes only and shall be given no weight in the construction of this Settlement Agreement.

28. **Gender and Number.** All references herein to the masculine gender shall be deemed to apply equally to the feminine and neuter genders and vice versa. All references herein to the singular shall be deemed to apply equally to the plural and vice versa.

29. **Severability.** Should any non-material term, provision or paragraph of this Settlement Agreement be determined to be illegal or void or of no force and effect, the balance of this Settlement Agreement shall survive. Should the Parties be unable to agree as to whether any term, provision or paragraph of this Settlement Agreement that may be determined to be illegal or void or of no force and effect is material or not, such dispute shall be resolved in accordance with Section 22 of this Settlement Agreement.

30. **Counterparts.** This Settlement Agreement may be executed in counterparts. The Parties further agree that this Settlement Agreement may be executed by facsimile or electronic signature, with such facsimile or electronic signature to have the same force, validity and effect as an original signature.

31. **Execution.** This Settlement Agreement shall be a valid and binding agreement only when executed and delivered to the Parties hereto (subject to Bankruptcy Court approval and the occurrence of the Effective Date). Subject to the foregoing limitation, delivery by facsimile or other electronic transmission shall be sufficient to render the Settlement Agreement valid and binding.

32. **Further Assurances.** Each Party shall take such additional reasonable and necessary acts as necessary to accomplish the purposes of this Settlement Agreement, including the filing and prosecution by Wall Street and Namco in their respective bankruptcy cases of a motion pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure for approval of this Settlement Agreement.

33. **Recitals.** The Recitals contained herein shall be accorded no evidentiary value by any of the Parties or a court of competent jurisdiction, and may be used solely for purposes of interpreting this Settlement Agreement.

Dated: _____

NAMCO CAPITAL GROUP, INC.
a California corporation

By: _____

Bradley D. Sharp

Its: Chapter 11 Trustee

Dated: _____

WALL STREET MART, L.P.
a California limited partnership

By: _____

Namco Capital Group, Inc.

Its: General Partner

By: _____

Bradley D. Sharp

Its: Chapter 11 Trustee

Dated: _____

RASSOL, LLC,
a Delaware limited liability company

By: _____

Its: _____

Dated: _____

AMONA INVESTMENTS, INC.,
a California corporation

By: _____

Its: _____

[Signatures Continued on Following Page]

Dated: _____

INGLEWOOD INVESTMENT
COMPANY, INC.,
a California corporation

By: _____
Its: _____

Dated: _____

THE RASTEGAR FAMILY TRUST

By: _____
Its: _____

Dated: _____

SOLOMON RASTEGAR, an individual

Dated: _____

ROXANA RASTEGAR, an individual

Dated: _____

MAHI RASTEGAR, an individual

Dated: _____

JESSICA KIMIABAKHASH, an individual

Dated: _____

MICHELE KIMIABAKHASH,
an individual

Dated: _____

SHABNAM KIMIABAKHASH,
an individual

EXHIBIT A

TO FOLLOW

EXHIBIT 2

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

321.76 - Rastegar, Sharaheh

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35591	\$ 13,333.33
2	Check	01/31/08	36000	13,333.33
3	Check	02/29/08	36420	13,333.33
4	Check	03/31/08	36845	13,333.33
5	Check	04/30/08	37282	13,333.33
6	Check	05/31/08	37733	13,333.33
7	Check	06/30/08	38185	13,333.33
8	Check	07/07/08	Wire Out	2,000,000.00
9	Check	07/31/08	38635	2,636.67
				<u>\$ 2,095,969.98</u>

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Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

313.92 - Rastegar, Roxana

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35590	\$ 28,533.33
2	Check	01/31/08	35999	35,784.44
3	Check	02/05/08	53358	28,564.45
4	Check	02/29/08	36419	50,066.67
5	Check	03/31/08	36844	50,066.67
6	Check	04/30/08	37281	50,066.67
7	Check	05/31/08	37732	50,066.67
8	Check	06/30/08	38184	50,066.67
9	Check	07/31/08	38634	50,066.67
10	Check	08/31/08	39067	50,066.67
11	Check	10/06/08	55117	31,291.67
				<u>\$ 474,640.58</u>

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

313.43 - Rastegar, Mahi

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35588	\$ 4,333.33
2	Check	01/31/08	35997	4,333.33
3	Check	02/29/08	36417	4,333.33
4	Check	03/31/08	36843	4,333.33
5	Check	04/30/08	37280	4,333.33
6	Check	05/31/08	37731	4,455.56
7	Check	06/30/08	38183	4,666.67
8	Check	07/31/08	38633	4,666.67
9	Check	08/31/08	39066	4,666.67
10	Check	09/29/08	55022	2,916.67
				<u>\$ 43,038.89</u>

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

321.32 - Kimiabakhash, Jessica

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35460	\$ 2,666.67
2	Check	01/31/08	35868	10,535.56
3	Check	02/29/08	36281	9,066.67
4	Check	03/31/08	36702	9,066.67
5	Check	04/30/08	37137	9,066.67
6	Check	05/31/08	37584	9,066.67
7	Check	06/30/08	38037	9,066.67
8	Check	07/31/08	38494	9,066.67
9	Check	08/31/08	38930	9,066.67
10	Check	09/29/08	39742	5,666.67
				<u>\$ 82,335.59</u>

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

321.46 · Kimlabakhash, Michele

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35461	\$ 3,066.67
2	Check	01/31/08	35869	11,684.44
3	Check	02/29/08	36282	9,466.67
4	Check	03/31/08	36703	9,466.67
5	Check	04/30/08	37138	9,466.67
6	Check	05/31/08	37585	9,466.67
7	Check	06/30/08	38038	9,466.67
8	Check	07/31/08	38495	9,466.67
9	Check	08/31/08	38931	9,466.67
10	Check	09/29/08	39743	5,916.67
				<u>\$ 86,934.47</u>

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

321.47 · Kimiabakhash, Shabnam

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35462	\$ 10,284.44
2	Check	01/31/08	35870	13,226.67
3	Check	02/29/08	36283	12,966.67
4	Check	03/31/08	36704	12,966.67
5	Check	04/30/08	37139	12,966.67
6	Check	05/31/08	37586	12,966.67
7	Check	06/30/08	38039	12,966.67
8	Check	07/31/08	38496	12,966.67
9	Check	08/31/08	38932	12,966.67
10	Check	09/29/08	39744	8,104.17
				<u>\$ 122,381.97</u>

Bankruptcy Estate of Namco Capital Group
1-Year Preference Analysis

313.21 - Rastegar Family Trust

Item #	Type	Date	Check Number	Disbursement
1	Check	12/31/07	35589	\$ 47,666.67
2	Check	01/31/08	35998	13,886.67
3	Check	02/06/08	53373	400,000.00
4	Check	02/29/08	36418	33,066.67
5	Check	03/18/08	53646	6,788.89
6	Check	03/31/08	36846	33,600.00
7	Check	04/30/08	37283	33,600.00
8	Check	05/31/08	37734	33,600.00
9	Check	06/30/08	38186	35,066.67
10	Check	08/20/08	54661	37,266.67
11	Check	08/31/08	39065	37,266.67
12	Check	10/06/08	55118	23,291.67
				<u>\$ 735,100.58</u>

NOTE: When using this form to indicate service of a proposed order, DO NOT list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 1900 Avenue of the Stars, Seventh Floor, Los Angeles, California 90067-4308

A true and correct copy of the foregoing document described as NOTICE OF JOINT MOTION AND JOINT MOTION OF BRADLEY D. SHARP, CHAPTER 11 TRUSTEE FOR NAMCO CAPITAL GROUP, INC. AND WALL STREET MART, L.P., DEBTOR AND DEBTOR-IN-POSSESSION, FOR AN ORDER APPROVING AND AUTHORIZING THE EXECUTION OF AND PERFORMANCE UNDER THE SETTLEMENT AGREEMENT BETWEEN THE ESTATE OF NAMCO CAPITAL GROUP, INC., THE ESTATE OF WALL STREET MART, L.P., AND THE RASTEGAR PARTIES; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATION OF BRADLEY D. SHARP IN SUPPORT THEREOF will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On November 23, 2011, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served): On November 23, 2011, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Served By Overnight Mail:
Honorable Barry Russell
United States Bankruptcy Court
255 E. Temple Street, Suite 1660
Los Angeles, CA 90012

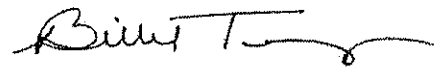
Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

November 23, 2011 Billie Terry



Date Type Name Signature

1 **ADDITIONAL SERVICE INFORMATION**

2 **I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

- 3 • Simon Aron saron@wrslawyers.com
4 • Raymond H Aver ray@averlaw.com
5 • Charles Avrith jneal@nagler.com
6 • Shauna Avrith savrith@nagler.com, 2011-11-08T11:59:39.000
7 • Andrew Bao aabao@wolfewyman.com
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