UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

EVALUATION SOLUTIONS, LLC	Case No.: 3:13-bk-00446-JAF
ES APPRAISAL SERVICES, LLC,	Jointly Administered with Case No. 3:13-bk-00447-JAF
	Chapter 7

Debtors.
_____/

MOTION TO APPROVE SETTLEMENT AGREEMENT BY AND AMONG THE CHAPTER 7 TRUSTEE, SUMMIT FINANCIAL RESOURCES, L.P. AND JPMORGAN CHASE BANK, N.A.

G. L. Atwater, the duly appointed chapter 7 trustee (the "Trustee") of Evaluation Solutions, LLC ("Evaluation Solutions") and ES Appraisal Services, LLC ("ES Appraisal"), the debtors in the above-captioned cases (collectively, the "Debtors"), hereby moves (the "Motion") the Court pursuant to Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for the entry of an order approving the settlement agreement (the "Settlement Agreement")[1] by and among the Trustee, Summit Financial Resources, L.P. ("Summit") and JPMorgan Chase Bank, N.A. ("JPMorgan Chase" and together with the Trustee and Summit, the "Parties"). In support of this Motion, the Trustee represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicate for the relief requested herein is section 105(a) of title 11

[1] A copy of the Settlement Agreement is annexed hereto as Exhibit 1.

of the United States Code (the "Bankruptcy Code"), as complemented by Bankruptcy Rule 9019(a).

STATEMENT OF FACTS

A. Background

3. Evaluation Solutions was formed in 2005 as a provider and facilitator of customized programs for mortgage servicers and lenders through use of a proprietary service platform developed to deal with real estate valuation challenges.

4. ES Appraisal is Evaluation Solutions' wholly-owned affiliate and acted as the appraisal arm of the business while Evalutaion Solutions' operations focused on brokers price opinions and value reconciliations.

5. On January 25, 2013 (the "Petition Dates"), the Debtors filed voluntary petitions seeking relief under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Bankruptcy Court"), thereby commencing the bankruptcy proceedings jointly administered under Case No.: 3:13-bk-00446-JAF (collectively, the "Bankruptcy Cases").

6. On January 28, 2013, G. L. Atwater was appointed Trustee in each of these chapter 7 cases.

B. The Summit Loan and the Debtors' Obligations Thereunder

7. On or about November 30, 2011, Summit agreed to extend credit in the sum of $2,000,000 to the Debtors and Capital Consulting Services, Inc. ("Capital Consulting", and together with the Debtors, the "Borrowers") in the nature of a revolving line of credit pursuant to that certain Loan and Security Agreement (the "Security Agreement").

8. Summit alleges that by the Security Agreement the Borrowers granted to Summit

a security interest in and to, among other things, the Collateral,[2] which includes, without limitation (a) Inventory, (b) Accounts, (c) Equipment, (d) all general intangibles, including any and all patents, trademarks and copyrights (registered or unregistered), trade secrets, domain names, and addresses, and intellectual property licenses; (e) Financial Obligations, and (f) all balances, deposits, debts, or any other amounts or obligations of Summit owing to the Borrowers, including, without limitation, any Reserve, whether or not due.[3]

9. The Loan is evidenced by, among other things, that certain Promissory Note (the "Note") dated as of November 30, 2011, and executed by the Borrowers in favor of Summit.

10. Summit alleges it perfected its interest in the Collateral by, among other things, filing a UCC-1 Financing Statement with the Florida Secured Transaction Registry on October 21, 2011, File No. 2011-05532583, and subsequently amended on November 29, 2011 and November 30, 2011, File Nos. 2011-05739102 (collectively, the "UCC").

11. On or about November 30, 2011, Bryan F. Guckavan executed that certain Guarantee (the "Guckavan Guarantee") dated as of November 30, 2011, wherein Guckavan "absolutely and unconditionally guarantees to [Summit] that Borrower[s] shall promptly and fully perform, pay and discharge the Indebtedness. If Borrower[s] fails to pay any Indebtedness promptly as the same becomes due, Guarantor agrees to pay the Indebtedness on demand".

12. On or about November 30, 2011, James A. Moore executed that certain Guarantee (the "Moore Guarantee") dated as of November 30, 2011, wherein Moore "absolutely and unconditionally guarantees to [Summit] that Borrower[s] shall promptly and fully perform, pay

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Loan Documents (as defined below).

[3] The Trustee is currently in possession of approximately $177,070.00 (the "Bank Account Collateral"). Pursuant to the Loan Documents (as defined below), Summit contends that the Bank Account Collateral constitutes Summit's cash collateral pursuant to section 363(a) of the Bankruptcy Code.

and discharge the Indebtedness. If Borrower[s] fails to pay any Indebtedness promptly as the same becomes due, Guarantor agrees to pay the Indebtedness on demand".

13. On or about July 12, 2012, Summit, Borrowers, and Guarantors agreed, among other things, to increase the amount of the Loan to $2,500,000 as evidenced by, among other things, that certain Amended and Restated Promissory Note ("Amended Note"), First Amendment to Loan and Security Agreement ("Amended Security Agreement"), and Consent and Agreement of Guarantor ("Guarantor Consent").

14. In connection with the foregoing amendments, Summit alleges that a UCC-1 was filed on July 18, 2012 (the "Amended UCC") with the Florida Secured Transaction Registry, File No. 2012-07161282, amending the UCC.[4]

15. By letter dated December 28, 2012 ("Notice of Default and Demand for Payment"), Summit provided Borrowers with notification that Events of Default have occurred under the Loan Documents, including, without limitation, Borrowers had ceased their business operations.

16. Summit also notified the Borrowers that it was exercising its rights and remedies under the Loan Documents and had, among other things, foreclosed upon its security interest in certain of the Collateral, including, without limitation, all of the Borrowers' Accounts.

17. Summit further made demand upon Borrowers to stop collecting payments on Accounts, tender any payments that they have collected or may collect on any Account to Summit, and not interfere with Summit's rights and efforts to collect payments on all Accounts.

18. Summit alleges that it also notified the Debtors' account debtors, including JPMorgan Chase, by letter dated December 28, 2012, that, among other things, Summit had

[4] Collectively, the Note, Security Agreement, UCC, Guckavan Guarantee, Moore Guarantee, Amended Note, Amended Security Agreement, Guarantor Consent and Amended UCC, together with any other documents or papers evidencing or securing the Loan are collectively referred to herein as the "Loan Documents".

foreclosed upon its security interest in all of the Evaluation Solutions' Accounts and demanded all payments on all the Evaluation Solutions' Accounts to be sent to Summit.

19. Summit alleges as of January 25, 2013, the amount due under the Loan Documents is not less than $2,216,939.09, which comprises (i) $2,212,200.99 in principal; and (ii) $4,738.10 in accrued interest and administration fees, which interest and fees continue to accrue at a rate of $1,579.36 per day under the Loan Documents; along with (iii) attorneys' fees and costs, which also continue to accrue (the "Summit Secured Claim").

C. The Master Services Agreement Between JP Morgan Chase and Evaluation Solutions and JPMorgan Chase's Obligations Thereunder

20. On or about January 1, 2010, JPMorgan Chase and Evaluation Solutions entered into that certain Master Services Agreement.

21. Pursuant to the Master Services Agreement, Evaluation Solutions provided JPMorgan Chase with a comprehensive network of resources including brokers, agents and appraisers covering the entire United States and its territories, and pursuant thereto provided appraisals, brokers price opinions and value reconciliations to JPMorgan Chase. All brokers, agents and appraisers were independently selected by Evaluation Solutions and JPMorgan Chase did not direct which brokers, agents and appraisers were utilized by Evaluation Solutions.

22. Immediately prior to the Petition Dates, JPMorgan Chase terminated the Master Services Agreement pursuant to its terms.

23. JPMorgan Chase acknowledges that it owes the Debtors, as of the Petition Dates, $2,316,000.00 pursuant to the Master Services Agreement (the "JPMorgan Chase Receivable").

24. JPMorgan Chase estimates it could be exposed to equitable claims of more than ten thousand brokers, agents and/or appraisers in Evaluation Solutions' network for accounts payable by Evaluation Solutions.

25. JPMorgan Chase alleges that the Master Services Agreement provides JPMorgan Chase a right of setoff and indemnity against any funds due Evaluation Solutions for certain claims, losses, liabilities, and any other costs and expenses incurred as a result of third party claims.

26. The Trustee alleges that the funds due Evaluation Solutions from JPMorgan Chase constitute property of the bankruptcy estate under 11 U.S.C. § 541(a), and in the event a third-party should assert claims against JPMorgan Chase to recover sums contractually due it from Evaluation Solutions, JPMorgan Chase asserts it would be contractually entitled to exercise its right to offset such funds as set forth in the Master Services Agreement, thereby reducing the funds payable to the bankruptcy estate.

D. The Settlement Agreement

27. The salient terms of the Settlement Agreement are as follows:[5] In settlement of the JPMorgan Receivable and any and all other claims arising under or related to the Master Services Agreement, JPMorgan Chase shall pay $2,316,000.00 to the Trustee (the "JPMorgan Chase Settlement Payment") in consideration for a release by the Trustee on behalf of the Debtors and the bankruptcy estates from all claims and liabilities of any kind arising out of or related to 11 U.S.C. §§ 547 through 551, the Loan Documents, the Summit Secured Claim, the Bank Account Collateral, the Master Services Agreement, and the JPMorgan Receivable (all as defined in the Settlement Agreement) and entry by the Bankruptcy Court of a bar order in a form substantially similar to the form attached as an exhibit to the Settlement Agreement which would permenantly enjoin any and all third parties which are creditors of the Debtors from initiating or continuing claims against JPMorgan Chase for services performed at the request of Debtors for

[5] The following descriptions of the terms of the Settlement Agreement are intended solely to provide the Court and interested parties with a brief overview of the significant terms thereof. The Court and interested parties are respectfully referred to the Settlement Agreement for the complete terms thereof.

the benefit of JPMorgan Chase. The JPMorgan Chase Settlement Payment shall be paid to the Trustee no later than ten (10) business days after the Final Order granting this Motion and approving the terms of the Settlement Agreement and the proposed bar order attached thereto and all applicable appeal periods relating to that Final Order have expired. Payment shall be made by check payable to "G. L. Atwater, as Chapter 7 Trustee of Evaluation Solutions, LLC and ES Appraisal Services, LLC" and delivered to P.O. Box 440787, Jacksonville, FL 32222.

28. Summit shall have an allowed secured claim against the bankruptcy estates pursuant to 11 U.S.C. § 506 in the amount of the Summit Secured Claim (the "Allowed Secured Claim"). In settlement of the Summit Allowed Secured Claim and any and all other claims arising out of or related to the Loan Documents, the Trustee, on behalf of the estates, shall pay $2,216,000.00 to Summit (the "Summit Settlement Amount"). The Trustee shall pay the Summit Settlement Amount no later than ten (10) business days after the Trustee's receipt of the JPMorgan Chase Settlement Payment. Payment shall be made by check payable to "Summit Financial Resources, L.P." and delivered to Summit Financial Resources, L.P., 2455 East Parleys Way, Suite 200, Salt Lake City, UT 84109, Attention: Burke R. Gappmayer. Upon payment to Summit of the Summit Settlement Amount, Summit shall be deemed to have released any and all liens, claims and encumbrances in, on and against any and all property of the bankruptcy estates, including, but not limited to, the Collateral, the Bank Account Collateral and any excess funds received by the Trustee from the JPMorgan Chase Settlement Payment (collectively, the "Estate Property"), and the Estate Property shall be deemed free and clear of all liens, claims and encumbrances of any kind and from any source, and shall be distributed to the Trustee in

accordance with 11 U.S.C. § 726[6]; *provided, however*, Summit shall have an allowed general non-priority unsecured claim against the bankruptcy estates in the amount of the difference between the Summit Allowed Secured Claim and the Summit Settlement Amount.

29. Summit consents to the immediate use by the bankruptcy estates of the Bank Account Collateral in an amount not to exceed $85,000.00; *provided, however*, that Summit shall have the right to assert a superpriority administrative expense claim against the estates to the extent of such use, but only in the event Summit does not receive the Summit Settlement Amount in accordance paragraph 6 of the Settlement Agreement ("Superpriority Claim") and the Trustee shall not oppose any such request; *provided further* that the Superpriority Claim shall be subordinate to all Bankruptcy Court approved administrative expense of the Trustee, including, but not limited to, the Trustee's fees and costs and the fees and costs of his attorneys and other professionals.

30. Except as otherwise specifically provided in the Settlement Agreement and proposed bar order annexed to the Settlement Agreement, upon the entry of a Final Order approving the Settlement Agreement, the Trustee on behalf of the Debtors and the bankruptcy estates, and each of his, its and their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel (collectively, the "Summit and JPMorgan Chase Releasees"), from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys'

[6] Nothing in the Motion or the Settlement Agreement shall be deemed a release of the Guckavan Guarantee or the Moore Guarantee or a waiver of Summit's rights and remedies to enforce those guarantees against Bryan F. Guckavan and James A. Moore.

fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to 11 U.S.C. §§ 544, 547 to 551, Chapter 726 of the Florida Statutes, the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable; *provided, however* that this release shall not release nor be deemed to have released any other claims, causes of action, suits or demands of the Trustee or the estates of any kind against any person or entity besides the Summit and JPMorgan Chase Releasees.

31. Except as otherwise specifically provided in the Settlement Agreement, upon entry of a Final Order approving the Settlement Agreement and the proposed bar order annexed to the Settlement Agreement, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the Trustee and his representatives and counsel, from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

32. Except as otherwise specifically provided in the Settlement Agreement, upon entry of a Final Order approving the Settlement Agreement and the proposed bar order annexed to the Settlement Agreement, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the Debtors and the bankruptcy estates from any and all known or unknown claims, causes of action, suits,

debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

33. Except as otherwise specifically provided in the Settlement Agreement, all entities who have held, hold or may hold claims, rights, causes of action, liabilities or any interests based upon any act or omission, transaction or other activity of any kind or nature related to services provided for the benefit of JPMorgan Chase related to the Debtors or any funds owed to creditors by the Debtors under the Master Services Agreement that occurred prior to the Petition Dates, regardless of the filing, lack of filing, allowance or disallowance of such a claim or interest, and any successors, assigns or representatives of such entities shall be precluded and permanently enjoined on and after the Petition Dates from (a) the commencement or continuation in any manner of any claim, action or other proceeding of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which such entity possessed or may possess prior to the Petition Dates, (c) the creation, perfection or enforcement of any encumbrance of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, and (d) the assertion of any claims that are released under the Settlement Agreement.

34. In the event that the Bankruptcy Court does not enter a Final Order approving the Settlement Agreement, then the Settlement Agreement shall be without force and effect and none of the provisions thereof, except for Summit's ability to assert a Superpriority Claim against the Debtors' estates and the Trustee's agreement to not oppose such claim pursuant to the terms of paragraph 6 of the Settlement Agreement, shall be used or referred to in any subsequent proceedings or shall prejudice or impair any of the rights or remedies of the Parties hereto.

RELIEF REQUESTED

35. By this Motion, the Trustee seeks entry of an Order, pursuant to Bankruptcy Rule 9019, approving the Settlement Agreement with Summit and JPMorgan Chase, inclusive of the permanent enjoinment of claims and/or actions of third parties against JPMorgan Chase, in a form substantially similar to the proposed order annexed hereto .

36. Federal Rule of Bankruptcy Procedure 9019(a) provides, in pertinent part, that "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement." Fed. R. Bankr. P. 9019(a). The standard in this Circuit for determining whether to approve a compromise or settlement pursuant to Rule 9019(a) is set forth in *Wallis v. Justice Oaks II, Ltd. (In re Justice Oaks II, Ltd.)*, 898 F.2d 1544 (11th Cir. 1990), in which the Eleventh Circuit stated as follows:

> When a bankruptcy court decides whether to approve or disapprove a proposed settlement, it must consider:
>
> > (a) The probability of success in the litigation;
> > (b) the difficulties, if any, to be encountered in the matter of collection;
> > (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
> > (d) the paramount interest of the creditors and
> > a proper deference to their reasonable views in the premises.

Id. at 1549.

37. Based upon the existence of Summit's blanket lien on all assets of the Debtors' bankruptcy estates, the likelihood of the Trustee recovering any surplus funds upon successfully challenging the liens of Summit, and in order to avoid the costs and uncertainties of litigation, the Trustee believes the foregoing compromise with the Summit and JPMorgan Chase is reasonable and in the best interest of all creditors and the bankruptcy estates. Furthermore, the willingness of JPMorgan Chase to settle and enter into the Settlement Agreement, with the critical protections of the proposed bar order, is expressly conditioned upon the Court's entry of the proposed bar order.

38. The Settlement Agreement results in the resolution of Summit's secured claims and liens against all property of the Debtors' estates in an economical manner, without the need for further litigation and attendant costs and risks associated therewith. The Settlement Agreement provides for Summit to waive its claim to all funds currently in possession of the Trustee and to all claims to the JPMorgan Chase Settlement Payment in excess of $2,216,000, resulting in a net recovery to the estates of approximately $200,000. In view of the uncertainty that always accompanies litigation the Trustee believes that this Settlement Agreement with Summit and JPMorgan Chase should be approved by this Court. Moreover, the Settlement Agreement serves the best interest of the estates' creditors because there is a finite amount of funds available in the estates, and the cost of litigating the disputes between the Parties would be substantial. As such, it is in the best exercise of the Trustee's business judgment to compromise this matter, as set forth above, and therefore this Settlement Agreement satisfies the factors set forth by the Eleventh Circuit in its *Justice Oaks II* decision.

39. The Court has inherent power under 11 U.S.C. § 105(a) to enter the requested bar order in the form annexed to the Settlement Agreement. When a requested bar order is integrally

related to the Trustee's claim, is an essential and critical element of the settlement, is necessary to achieve complete resolution of the issues contained within the settlement agreement, and is fair and equitable, then the Court has subject matter jurisdiction to enjoin claims and entry of a bar order is a proper exercise of the Court's power under 11 U.S.C. § 105(a). *See Munford v. Munford, Inc. (In re Munford)*, 97 F.3d 449 (11th Cir. 1996); *In re Rothstein Rosenfeldt Adler, P.A.*, 2010 WL 374885, Case No. 09-34791-BKC-RBR (Ray, J.) (Bankr. S.D. Fla. Sept. 22, 2010); *SEC v. Nadel*, Case No. 09-CV-87-T-26TBM (Lazzara, D.J.) (M.D. Fla. Feb. 10, 2012).

CONCLUSION

WHEREFORE, in consideration of the foregoing and subject to the approval of the Bankruptcy Court, the Trustee respectfully requests that this Court enter an order (i) approving the Settlement Agreement and bar order, a copy of which is annexed to the Settlement Agreement as Exhibit A; (ii) authorizing the Trustee to take such action as required to consummate the Settlement Agreement; and (iii) granting such other additional relief as is necessary and appropriate under the circumstances.

Dated: May 2, 2013.

AKERMAN SENTERFITT

By: */s/ Jacob A. Brown*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by electronic means, facsimile, same day messenger or U.S. mail this 2nd day of May, 2013 to those parties listed on the attached Service Lists.

/s/ *Jacob A. Brown*
Attorney

Evaluation Solutions, LLC
Case No.: 3:13-bk-00446-JAF

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UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

EVALUATION SOLUTIONS, LLC	Case No.: 3:13-bk-00446-JAF
ES APPRAISAL SERVICES, LLC,	Jointly Administered with Case No. 3:13-bk-00447-JAF
	Chapter 7

Debtors.
_____/

SETTLEMENT AGREEMENT

This settlement agreement (the "Settlement Agreement") is made and entered into as of this 1st day of May, 2013, by and between G. L. Atwater, the duly appointed chapter 7 trustee (the "Trustee") of Evaluation Solutions, LLC ("Evaluation Solutions") and ES Appraisal Services, LLC ("ES Appraisal"), the debtors in the above-captioned cases (collectively, the "Debtors"), Summit Financial Resources, L.P. ("Summit") and JPMorgan Chase Bank, N.A. ("JPMorgan Chase" and together with the Trustee and Summit, the "Parties").

RECITALS

A. Background

WHEREAS, Evaluation Solutions was formed in 2005 as a provider and facilitator of customized programs for mortgage servicers and lenders through use of a proprietary service platform developed to deal with real estate valuation challenges;

WHEREAS, ES Appraisal is Evaluation Solutions' wholly-owned affiliate and acted as the appraisal arm of the business while Evalutaion Solutions' operations focused on brokers price opinions and value reconciliations;

Exhibit 1

WHEREAS, on January 25, 2013 (the "Petition Dates"), the Debtors filed voluntary petitions seeking relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Bankruptcy Court"), thereby commencing the bankruptcy proceedings jointly administered under Case No.: 3:13-bk-00446-JAF (collectively, the "Bankruptcy Cases");

WHEREAS, on January 28, 2013, G. L. Atwater was appointed Trustee in each of these chapter 7 cases;

B. The Summit Loan and the Debtors' Obligations Thereunder

WHEREAS, on or about November 30, 2011, Summit agreed to extend credit in the sum of $2,000,000.00 to the Debtors and Capital Consulting Services, Inc. ("Capital Consulting", and together with the Debtors, the "Borrowers") in the nature of a revolving line of credit pursuant to that certain Loan and Security Agreement (the "Security Agreement");

WHEREAS, Summit alleges that by the Security Agreement, the Borrowers granted to Summit a security interest in and to, among other things, the Collateral,[1] which includes, without limitation (a) Inventory, (b) Accounts, (c) Equipment, (d) all general intangibles, including any and all patents, trademarks and copyrights (registered or unregistered), trade secrets, domain names, and addresses, and intellectual property licenses; (e) Financial Obligations, and (f) all balances, deposits, debts, or any other

[1] Capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Loan Documents (as defined below).

Exhibit 1

amounts or obligations of Summit owing to the Borrowers, including, without limitation, any Reserve, whether or not due;[2]

WHEREAS, the Loan is evidenced by, among other things, that certain Promissory Note (the "Note") dated as of November 30, 2011, and executed by the Borrowers in favor of Summit;

WHEREAS, Summit alleges it perfected its interest in the Collateral by, among other things, filing a UCC-1 Financing Statement with the Florida Secured Transaction Registry on October 21, 2011, File No. 2011-05532583, and subsequently amended on November 29, 2011 and November 30, 2011, File Nos. 2011-05739102 (collectively, the "UCC");

WHEREAS, on or about November 30, 2011, Bryan F. Guckavan executed that certain Guarantee (the "Guckavan Guarantee") dated as of November 30, 2011, wherein Guckavan "absolutely and unconditionally guarantees to [Summit] that Borrower[s] shall promptly and fully perform, pay and discharge the Indebtedness. If Borrower[s] fails to pay any Indebtedness promptly as the same becomes due, Guarantor agrees to pay the Indebtedness on demand";

WHEREAS, on or about November 30, 2011, James A. Moore executed that certain Guarantee (the "Moore Guarantee") dated as of November 30, 2011, wherein Moore "absolutely and unconditionally guarantees to [Summit] that Borrower[s] shall promptly and fully perform, pay and discharge the Indebtedness. If Borrower[s] fails to pay any Indebtedness promptly as the same becomes due, Guarantor agrees to pay the Indebtedness on demand";

[2] The Trustee is currently in possession of approximately $177,070.00 (the "Bank Account Collateral"). Pursuant to the Loan Documents (as defined below), Summit contends that the Bank Account Collateral constitutes Summit's cash collateral pursuant to section 363(a) of the Bankruptcy Code.

Exhibit 1

WHEREAS, on or about July 12, 2012, Summit, Borrowers, and Guarantors agreed, among other things, to increase the amount of the Loan to $2,500,000.00 as evidenced by, among other things, that certain Amended and Restated Promissory Note ("Amended Note"), First Amendment to Loan and Security Agreement ("Amended Security Agreement"), and Consent and Agreement of Guarantor ("Guarantor Consent");

WHEREAS, Summit alleges that in connection with the foregoing amendments a UCC-1 was filed on July 18, 2012 (the "Amended UCC") with the Florida Secured Transaction Registry, File No. 2012-07161282, amending the UCC;[3]

WHEREAS, by letter dated December 28, 2012 ("Notice of Default and Demand for Payment"), Summit provided Borrowers with notification that Events of Default have occurred under the Loan Documents, including, without limitation, Borrowers had ceased their business operations;

WHEREAS, Summit also notified the Borrowers that it was exercising its rights and remedies under the Loan Documents and had, among other things, foreclosed upon its security interest in certain of the Collateral, including, without limitation, all of the Borrowers' Accounts;

WHEREAS, Summit further made demand upon Borrowers to stop collecting payments on Accounts, tender any payments that they have collected or may collect on any Account to Summit, and not interfere with Summit's rights and efforts to collect payments on all Accounts;

[3] Collectively, the Note, Security Agreement, UCC, Guckavan Guarantee, Moore Guarantee, Amended Note, Amended Security Agreement, Guarantor Consent and Amended UCC, together with any other documents or papers evidencing or securing the Loan are collectively referred to herein as the "Loan Documents".

Exhibit 1

WHEREAS, Summit alleges it also notified the Debtors' account debtors, including JPMorgan Chase, by letter dated December 28, 2012, that, among other things, Summit had foreclosed upon its security interest in all of the Evaluation Solutions' Accounts and demanded all payments on all the Evaluation Solutions' Accounts to be sent to Summit;

WHEREAS, Summit alleges that as of January 25, 2013, the amount due under the Loan Documents is not less than $2,216,939.09, which comprises (i) $2,212,200.99 in principal; and (ii) $4,738.10 in accrued interest and administration fees, which interest and fees continue to accrue at a rate of $1,579.36 per day under the Loan Documents, along with (iii) attorneys' fees and costs, which also continue to accrue (the "Summit Secured Claim");

C. The Master Services Agreement Between JP Morgan Chase and Evaluation Solutions and JPMorgan Chase's Obligations Thereunder

WHEREAS, on or about January 1, 2010, JPMorgan Chase and Evaluation Solutions entered into that certain Master Services Agreement;

WHEREAS, pursuant to the Master Services Agreement, Evaluation Solutions provided JPMorgan Chase with a comprehensive network of resources including brokers, agents and appraisers covering the entire United States and its territories, and pursuant thereto provided appraisals, brokers price opinions and value reconciliations to JPMorgan Chase;

WHEREAS, as of the Petition Dates, Evaluations Solutions owed accounts payable to its network of thousands of brokers, agents and/or appraisers for services requested by Evaluations Solutions for the benefit of JPMorgan Chase;

Exhibit 1

WHEREAS, JPMorgan Chase alleges that the Master Services Agreement provides JPMorgan Chase a right of setoff and indemnity against any funds due Evaluation Solutions for certain claims, losses, liabilities, and any other costs and expenses incurred as a result of third party claims;

WHEREAS, JPMorgan Chase estimates it could be exposed to claims of more than ten thousand brokers, agents and/or appraisers in Evaluation Solutions' network for accounts payable;

WHEREAS, immediately prior to the Petition Dates, JPMorgan Chase terminated the Master Services Agreement pursuant to its terms;

WHEREAS, JPMorgan Chase acknowledges that it owes the Debtors, as of the Petition Dates, $2,316,000.00 pursuant to the Master Services Agreement (the "JPMorgan Chase Receivable");

WHEREAS, the Trustee alleges that the funds due Evaluation Solutions from JPMorgan Chase constitute property of the bankruptcy estate under 11 U.S.C. § 541(a), and in the event a third-party should assert claims against JPMorgan Chase to recover sums contractually due it from Debtors, JPMorgan Chase asserts it would be contractually entitled to exercise its right to offset such funds as set forth in the Master Services Agreement, thereby reducing the funds payable to the bankruptcy estate;

WHEREAS, JPMorgan Chase is willing to enter into this Settlement Agreement on the basis, and as a condition to settlement, that JPMorgan Chase obtains a bar order permenantly enjoining all persons or entities who have held, hold or may hold claims, rights, causes of action, liabilities or any interests based upon any act or omission, transaction, or other activity of any kind or nature related to JPMorgan Chase, as further

Exhibit 1

set forth in paragraph 2 hereinbelow, from instituting or maintaining against JPMorgan Chase any action, claim, or enforcement, again as set forth in paragraph 2 hereinbelow.

WHEREAS, after an exchange of information and documentation regarding the Loan Documents[4], the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Chase Receivable, and each of the Parties' legal positions with respect thereto, the Parties have agreed to resolve any and all claims arising out of or relating to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable consensually, on the terms hereof, to avoid the costs and uncertainties of litigation;

WHEREAS, the terms and provisions of this Settlement Agreement have been negotiated at arms' length and have been agreed to by the Parties in good faith;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and with the intent to be legally bound, and for good and valuable consideration, receipt of which is hereby acknowledged, it is hereby STIPULATED AND AGREED, by and between the Parties, as follows:

AGREEMENT

1. This Settlement Agreement is subject to approval by the Bankruptcy Court pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and the entry of a Final Order by the Bankruptcy Court approving this Settlement Agreement. For the purposes of this Settlement Agreement, the term "Final Order" shall mean an order approving this Settlement Agreement that has not been

[4] Nothing in this Motion or the Settlement Agreement shall be deemed a release of the Guckavan Guarantee or the Moore Guarantee or a waiver of Summit's rights and remedies to enforce those guarantees against Bryan F. Guckavan and James A. Moore.

Exhibit 1

stayed, reversed or amended and the time, as computed under the Bankruptcy Rules, to appeal or seek review or rehearing of such order (or any revision, modification or amendment thereof) has expired and no appeal or petition for review or rehearing of such order was filed, or if filed, remains pending.

2. This Settlement Agreement is conditioned upon and necessarily includes the entry of a bar order by the Bankruptcy Court in the form annexed hereto as Exhibit A. Such bar order shall permanently enjoin all entities who have held, hold or may hold claims, rights, causes of action, liabilities or any interests based upon any act or omission, transaction or other activity of any kind or nature related to services provided for the benefit of JPMorgan Chase related to the Debtors or any funds owed to creditors by the Debtors that occurred prior to the Petition Dates, regardless of the filing, lack of filing, allowance or disallowance of such a claim or interest, and any successors, assigns or representatives of such entities shall be precluded and permanently enjoined on and after the Petition Dates from (a) the commencement or continuation in any manner of any claim, action or other proceeding of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which such entity possessed or may possess prior to the Petition Dates, (c) the creation, perfection or enforcement of any encumbrance of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the

Exhibit 1

Debtors which it possessed or may possess prior to the Petition Dates, and (d) the assertion of any claims that are released under the Settlement Agreement.

3. Entry of the bar order is an essential condition of settlement by JPMorgan Chase and JPMorgan Chase would not have entered into this Settlement Agreement without the Trustee's agreement to seek and support the Bankruptcy Court's entry of the attached bar order, and JPMorgan Chase shall incur no obligation under this Settlement Agreement unless and until the attached bar order is entered by the Bankruptcy Court in substantially similar form and such order has become a Final Order as defined above.

4. In settlement of the JPMorgan Receivable and any and all other claims arising under or related to the Master Services Agreement, JPMorgan Chase shall pay $2,316,000.00 to the Trustee (the "JPMorgan Chase Settlement Payment"). The JPMorgan Chase Settlement Payment shall be paid to the Trustee no later than ten (10) business days after the Final Order approving the terms of this Settlement Agreement and the attached bar order and all applicable appeal periods relating to that Final Order have expired. Payment shall be made by check payable to "G. L. Atwater, as Chapter 7 Trustee of Evaluation Solutions, LLC and ES Appraisal Services, LLC" and delivered to P.O. Box 440787, Jacksonville, FL 32222.

5. Summit shall have an allowed secured claim against the bankruptcy estates pursuant to 11 U.S.C. § 506 in the amount of the Summit Secured Claim (the "Allowed Secured Claim"). In settlement of the Summit Secured Claim and any and all other claims arising out of or related to the Loan Documents[5], the Trustee, on behalf of the estate, shall pay $2,216,000.00 to Summit (the "Summit Settlement Amount"). The

[5] Nothing in this Motion or the Settlement Agreement shall be deemed a release of the Guckavan Guarantee or the Moore Guarantee or a waiver of Summit's rights and remedies to enforce those guarantees against Bryan F. Guckavan and James A. Moore.

Exhibit 1

Trustee shall pay the Summit Settlement Amount no later than ten (10) business days after the Trustee's receipt of the JPMorgan Chase Settlement Payment. Payment shall be made by check payable to "Summit Financial Resources, L.P." and delivered to Summit Financial Resources, L.P., 2455 East Parleys Way, Suite 200, Salt Lake City, UT 84109, Attention: Burke R. Gappmayer. Upon payment to Summit of the Summit Settlement Amount, Summit shall be deemed to have released any and all liens, claims and encumbrances in, on and against any and all property of the bankruptcy estates, including, but not limited to, the Collateral, the Bank Account Collateral and any excess funds received by the Trustee from the JPMorgan Chase Settlement Payment (collectively, the "Estate Property"), and the Estate Property shall be deemed free and clear of all liens, claims and encumbrances of any kind and from any source, and shall be distributed to the Trustee in accordance with 11 U.S.C. § 726; *provided, however*, Summit shall have an allowed general non-priority unsecured claim against the bankruptcy estates in the amount of the difference between the Summit Allowed Secured Claim and the Summit Settlement Amount.

6. Summit consents to the immediate use by the bankruptcy estates of the Bank Account Collateral in an amount not to exceed $85,000.00; *provided, however*, that Summit shall have the right to assert a superpriority administrative expense claim against the estates to the extent of such use, but only in the event Summit does not receive the Summit Settlement Amount in accordance with the terms hereof ("Superpriority Claim") and the Trustee shall not oppose any such request; *provided further* that the Superpriority Claim shall be subordinate to all Bankruptcy Court approved administrative expense claims of the Trustee, including, but not limited to, the Trustee's fees and costs and the fees and costs of his attorneys and other professionals.

Exhibit 1

7. Upon execution of this Settlement Agreement, the Trustee shall promptly file a motion for approval of this Settlement Agreement with the Bankruptcy Court pursuant to Bankruptcy Rule 9019. The Trustee shall provide at the estates' cost and expense a one-page written notice by first class U.S. mail of the Trustee's motion to approve this Settlement Agreement to all creditors and interested parties of the bankruptcy estates in accordance with the Court's Order (i) limiting notice and (ii) establishing notice procedures dated February 12, 2013 [Doc. No. 47] ("Order Limiting Notice"). The Trustee shall also provide electronic notice through the Bankruptcy Court's ECF system to all registered users, of his motion to approve this Settlement Agreement, the Settlement Agreement, the attached proposed bar order, and notice of the hearing on said motion and the deadline and instructions for filing objections. The Trustee shall also post copies of the motion to approve this Settlement Agreement, the Settlement Agreement, the attached proposed bar order, and notice of the hearing on said motion and the deadline and instructions for filing objections on the Trustee's website in accordance with the Order Limiting Notice, and schedule and notice an evidentiary hearing on the motion to approve this Settlement Agreement.

8. In the event the Bankruptcy Court denies the motion to approve the Settlement Agreement, and the denial becomes a Final Order, the terms of this Settlement Agreement shall become null and void (except for Summit's ability to assert a Superpriority Claim against the Debtors' estates and the Trustee's agreement not to oppose such claim pursuant to the terms of paragraph 6 hereof), and the Parties shall be returned to their *status quo ante*.

Exhibit 1

9. Except as otherwise specifically provided in this Settlement Agreement, upon the entry of a Final Order approving the Settlement Agreement and proposed bar order annexed hereto, the Trustee on behalf of the Debtors and the bankruptcy estates, and each of his, its and their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel (collectively, the "Summit and JPMorgan Chase Releasees"), from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to 11 U.S.C. §§ 544, 547 to 551, Chapter 726 of the Florida Statutes, the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable; *provided, however* that this release shall not release nor be deemed to have released any other claims, causes of action, suits or demands of the Trustee or the estates of any kind against any person or entity besides the Summit and JPMorgan Chase Releasees.

10. Except as otherwise specifically provided in the Settlement Agreement, upon entry of a Final Order approving the Settlement Agreement and proposed bar order annexed hereto, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the

Exhibit 1

Trustee and his representatives and counsel, from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

11. Except as otherwise specifically provided in the Settlement Agreement, upon entry of a Final Order approving the Settlement Agreement and proposed bar order annexed hereto, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the Debtors and the bankruptcy estates from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

12. Except as otherwise specifically provided in this Settlement Agreement, all entities who have held, hold or may hold claims, rights, causes of action, liabilities or any interests based upon any act or omission, transaction or other activity of any kind or nature related to services provided for the benefit of JPMorgan Chase related to the Debtors or any funds owed to creditors by the Debtors under the Master Services Agreement that occurred prior to the Petition Dates, regardless of the filing, lack of filing,

Exhibit 1

allowance or disallowance of such a claim or interest, and any successors, assigns or representatives of such entities shall be precluded and permanently enjoined on and after the Petition Dates from (a) the commencement or continuation in any manner of any claim, action or other proceeding of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which such entity possessed or may possess prior to the Petition Dates, (c) the creation, perfection or enforcement of any encumbrance of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, and (d) the assertion of any claims that are released hereby.

13. This Settlement Agreement may not be amended, modified or supplemented without either (i) the prior written consent of the Parties hereto, or (ii) the approval of the Bankruptcy Court; *provided*, *however*, that any material amendment, modification or supplementation hereof shall be subject to Bankruptcy Court approval.

14. In the event that the Bankruptcy Court does not enter a Final Order approving this Settlement Agreement, then this Settlement Agreement shall be without force and effect and none of the provisions hereof (except for Summit's ability to assert a Superpriority Claim against the Debtors' estates and the Trustee's agreement not to oppose such claim pursuant to the terms of paragraph 6 hereof) shall be used or referred

to in any subsequent proceedings or shall prejudice or impair any of the rights or remedies of the Parties hereto.

15. The Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Florida. This Settlement Agreement constitutes the sole and entire agreement and understanding of the Parties hereto with respect to the subject matter of this Settlement Agreement, and this Settlement Agreement supersedes all prior agreements, whether written or oral, with respect thereto. All prior discussions, agreements and understandings of every kind and nature among the Parties with respect thereto are merged into and superseded by this Settlement Agreement.

16. In the event a dispute arises between the Parties hereto with respect to the interpretation and/or implementation of the terms of this Settlement Agreement, the Bankruptcy Court shall retain exclusive jurisdiction to hear and determine any such dispute.

17. This Settlement Agreement may be executed in facsimile, electronic mail in portable document format, and counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same Settlement Agreement.

IN WITNESS WHEREOF, the Parties are executing this Settlement Agreement as of the date written above.

G.L. ATWATER, not individually,
but solely in his capacity as Chapter 7
Trustee of the Debtors

JPMORGAN CHASE BANK, N.A.
By:
Its:

SUMMIT FINANCIAL RESOURCES, L.P.
By:
Its:

to in any subsequent proceedings or shall prejudice or impair any of the rights or remedies of the Parties hereto.

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G.L. ATWATER, not individually,
but solely in his capacity as Chapter 7
Trustee of the Debtors

JPMORGAN CHASE BANK, N.A.
By:
Its:

SUMMIT FINANCIAL RESOURCES, L.P.
By: Roger A. Keefe
Its: President & CEO

Exhibit 1

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G.L. ATWATER, not individually,
but solely in his capacity as Chapter 7
Trustee of the Debtors

JPMORGAN CHASE BANK, N.A.
By: Steven Hemperly
Its: EVP, Operations Executive

SUMMIT FINANCIAL RESOURCES, L.P.
By:
Its:

Exhibit 1

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

EVALUATION SOLUTIONS, LLC	Case No.: 3:13-bk-00446-JAF
ES APPRAISAL SERVICES, LLC,	Jointly Administered with Case No. 3:13-bk-00447-JAF
	Chapter 7

Debtors.
_____/

ORDER GRANTING MOTION OF CHAPTER 7 TRUSTEE TO APPROVE SETTLEMENT AGREEMENT BY AND AMONG TRUSTEE, SUMMIT FINANCIAL RESOURCES, L.P. AND JPMORGAN CHASE BANK, N.A. PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019

THIS MATTER came before the Court on the motion dated May 1, 2013 (the "Motion") of G. L. Atwater, the duly appointed chapter 7 trustee (the "Trustee") of Evaluation Solutions, LLC ("Evaluation Solutions") and ES Appraisal Services, LLC ("ES Appraisal"), the debtors in the above-captioned cases (collectively, the "Debtors"), seeking the entry of an order approving a settlement agreement (the "Settlement Agreement"), a copy of which is annexed to the Motion as Exhibit A, by and among the Trustee, Summit Financial Resources, L.P. ("Summit") and JPMorgan Chase Bank, N.A. ("JPMorgan Chase" and together with the Trustee and Summit, the "Parties"). The Motion was filed and served electronically, and a one-page written notice of the Trustee's motion to approve the Settlement Agreement was served by first class U.S. mail to all creditors and interested parties of the bankruptcy estates in accordance with the Court's Order (i) limiting notice and (ii) establishing notice procedures dated February 12, 2013 [Doc. No. 47] ("Order Limiting Notice"), informing all creditors and interested parties of their opportunity to object no later than May 24, 2013 at 5:00 p.m. (E.T.). No objection to the Motion was filed in

Exhibit A to Settlement Agreement

the time period specified for the filing of such objections, and the Court deems the Motion to be unopposed. At hearing the Court received testimony from the Trustee and _____, of JPMorgan Chase, and having considered the Motion and the record, finds that the Settlement Agreement satisfies the standards for such settlements as set forth by the Eleventh Circuit in *In re Justice Oaks II, Ltd.*, 898 F.2d 1544 (11th Cir. 1990) and is in the best interest of all creditors and the bankruptcy estates. The Court further finds the bar order sought for the benefit of JPMorgan Chase is proper pursuant to 11 U.S.C. § 105(a), is an essential and critical condition of the Settlement Agreement, and that JPMorgan Chase would not have entered into the Settlement Agreement without the protection afforded by the proposed bar order. The Court has jurisdiction to enter the relief set forth herein generally, and, specifically to permanently enjoin claims and actions of third parties against JPMorgan Chase because any and all such claims and actions enjoined would arise from the same facts which are the basis of the Trustee's claims against JPMorgan Chase, the potential claims of third parties against JPMorgan Chase stand to impact the administration of the bankruptcy estate, the injunction is a critical and required term of settlement and is necessary to resolve the claims and issues as set forth more fully in the Settlement Agreement, and the requested relief is fair and equitable to all parties. Therefore, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. The Motion is **GRANTED** in its entirety.

2. The Settlement Agreement is **APPROVED**.

3. JPMorgan Chase shall pay $2,316,000.00 to the Trustee (the "JPMorgan Chase Settlement Payment"). The JPMorgan Chase Settlement Payment shall be paid to the Trustee no later than ten (10) business days after entry of this Final Order approving the terms of the

Settlement Agreement and the attached bar order, and all applicable appeal periods relating to this Final Order have expired. Payment shall be made by check payable to "G. L. Atwater, as Chapter 7 Trustee of Evaluation Solutions, LLC and ES Appraisal Services, LLC" and delivered to P.O. Box 440787, Jacksonville, FL 32222.

4. The Trustee shall pay to Summit the Summit Settlement Amount[1] no later than ten (10) business days after the Trustee's receipt of the JPMorgan Chase Settlement Payment. Payment shall be made by check payable to "Summit Financial Resources, L.P." and delivered to Summit Financial Resources, L.P., 2455 East Parleys Way, Suite 200, Salt Lake City, UT 84109, Attention: Burke R. Gappmayer. Upon payment to Summit of the Summit Settlement Amount, Summit shall be deemed to have released any and all liens, claims and encumbrances in, on and against any and all property of the bankruptcy estates, including, but not limited to, the Collateral, the Bank Account Collateral and any excess funds received by the Trustee from the JPMorgan Chase Settlement Payment (collectively, the "Estate Property"), and the Estate Property shall be deemed free and clear of all liens, claims and encumbrances of any kind and from any source, and shall be distributed to the Trustee in accordance with 11 U.S.C. § 726; *provided, however*, Summit shall have an allowed general non-priority unsecured claim against the bankruptcy estates in the amount of the difference between the Summit Allowed Secured Claim and the Summit Settlement Amount.[2]

5. The Trustee is authorized to immediately use the Bank Account Collateral in an amount not to exceed $85,000.00; *provided, however,* that Summit shall have the right to assert a

[1] Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the Settlement Agreement.

[2] Nothing in this Order or the Settlement Agreement shall be deemed a release of the Guckavan Guarantee or the Moore Guarantee or a waiver of Summit's rights and remedies to enforce those guarantees against Bryan F. Guckavan and James A. Moore.

superpriority administrative expense claim against the estates to the extent of such use, but only in the event Summit does not receive the Summit Settlement Amount in accordance with paragraph 6 of the Settlement Agreement ("Superpriority Claim") and the Trustee shall not oppose any such request; *provided further* that the Superpriority Claim shall be subordinate to all Bankruptcy Court approved administrative expense claims of the Trustee, including, but not limited to, the Trustee's fees and costs and the fees and costs of his attorneys and other professionals.

6. Except as otherwise specifically provided in the Settlement Agreement, upon this order becoming a Final Order, the Trustee on behalf of the Debtors and the bankruptcy estates, and each of his, its and their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel (collectively, the "Summit and JPMorgan Chase Releasees"), from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to 11 U.S.C. §§ 544, 547 to 551, Chapter 726 of the Florida Statutes, the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable; *provided, however* that this release shall not release nor be deemed to have released any other claims, causes of action, suits or demands of the Trustee or the estates of any kind against any person or entity besides the Summit and JPMorgan Chase Releasees.

7. Except as otherwise specifically provided in the Settlement Agreement, upon this order becoming a Final Order, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the Trustee and his representatives and counsel, from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

8. Except as otherwise specifically provided in the Settlement Agreement, upon this order becoming a Final Order, Summit and JPMorgan Chase and each of their current and former subsidiaries, affiliates, predecessors, successors, assigns, officers, directors, shareholders, employees, agents, representatives and counsel, shall be deemed to have released the Debtors and the bankruptcy estates from any and all known or unknown claims, causes of action, suits, debts, obligations, liabilities, demands, losses, costs and expenses (including attorneys' fees) of any kind whatsoever, including but not limited to any and all claims arising out of or related to the Loan Documents, the Summit Secured Claim, the Collateral, the Bank Account Collateral, the Master Services Agreement and the JPMorgan Receivable.

9. Except as otherwise specifically provided in the Settlement Agreement, all entities who have held, hold or may hold claims, rights, causes of action, liabilities or any interests based upon any act or omission, transaction or other activity of any kind or nature related to services provided for the benefit of JPMorgan Chase related to the Debtors or any funds owed to creditors by the Debtors under the Master Services Agreement that occurred prior

to the Petition Dates, regardless of the filing, lack of filing, allowance or disallowance of such a claim or interest, and any successors, assigns or representatives of such entities shall be precluded and permanently enjoined on and after the Petition Dates from (a) the commencement or continuation in any manner of any claim, action or other proceeding of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which such entity possessed or may possess prior to the Petition Dates, (c) the creation, perfection or enforcement of any encumbrance of any kind with respect to any claim, interest or any other right or claim against JPMorgan Chase for any and all matters related to the Debtors which it possessed or may possess prior to the Petition Dates, and (d) the assertion of any claims that are released hereby.

10. The Court reserves jurisdiction to enforce the terms of this order and the Settlement Agreement between the Parties.

DONE AND ORDERED this ___ day of June 2013, in Jacksonville, Florida.

_____

Jerry A. Funk
United States Bankruptcy Judge