UNITED STATES BANKRUPTCY COURT MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION

In re	CASE NO. 9:08-bk-04360-MGW

ULRICH FELIX ANTON ENGLER, PRIVATE COMMERCIAL OFFICE, INC., and PCO CLIENT MANAGEMENT, INC., CHAPTER 7 (Substantively Consolidated)

Debtors.		
		/

NOTICE OF FILING SETTLEMENT AGREEMENT WITH ANGELIKA NEUMEIER-FUCHS IN ADVERSARY PROCEEDING NO. 9:08-ap-00300-MGW

NOTICE IS HEREBY GIVEN that ROBERT E. TARDIF, JR. (hereinafter the "Plaintiff"), as Chapter 7 Trustee for the substantively consolidated bankruptcy estates of Ulrich Felix Anton Engler, Private Commercial Office, Inc., and PCO Client Management, Inc., by and through undersigned counsel, has this day filed a true and correct copy of the attached Settlement Agreement With Angelika Neumeier-Fuchs In Adversary Proceeding No. 9:08-ap-00300-MGW with the Clerk of this Court.

Respectfully submitted,

GENOVESE JOBLOVE & BATTISTA, P.A. Special Counsel to the Trustee 200 East Broward Boulevard, Suite 1110 Fort Lauderdale, Florida 33301 Telephone: (954) 453-8000 Telecopier: (954) 453-8010

By:/s/ Robert F. Elgidely
Robert F. Elgidely, Esq.
Florida Bar No. 111856

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice Of Filing Settlement Agreement with Angelika Neumeier-Fuchs In Adversary Proceeding No. 9:08-ap-

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00300-MGW has been furnished to all creditors and/or interested parties registered on the

Court's CM/ECF System and was also posted on the website "englerbk.com" in accordance with

the Order Granting Trustee's Motion To Establish Certain Notice, Case Management And

Administrative Procedures [C.P. 451], on the 20th day of May, 2011.

By:/s/ Robert F. Elgidely
Robert F. Elgidely, Esq.

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UNITED STATES BANKRUPTCY COURT MIDDLE DISTRICT OF FLORIDA FORT MYERS DIVISION

CASE NO. 9:08-bk-04360-ALP

RICH FELIX ANTON ENGLER, EVATE COMMERCIAL OFFICE, INC., PCO CLIENT MANAGEMENT, INC., CHAPTER 7
(Substantively Consolidated)

Debtors.

OBERT E. TARDIF, JR., AS TRUSTEE OR THE CHAPTER 7 BANKRUPTCY STATES OF ULRICH FELIX ANTON NGLER AND PRIVATE COMMERCIAL OFFICE, INC.,

Plaintiff.

ADV. PROC. NO. 9:08-ap-00300-ALP

ANGELIKA NEUMEIER-FUCHS,

Defendant.

SETTLEMENT AGREEMENT

This Agreement is made and entered into this ______day of May, 2010 (the "Effective Date") by and between ROBERT E TARDIF, JR., as Chapter 7 Trustee for the substantively consolidated bankruptcy estates of Ulrich Felix Anton Engler, Private Commercial Office, Inc., PCO Client Management, Inc. (hereinafter the "Trustee"), ANGELIKA NEUMEIER-FUCHS (hereinafter "Fuchs"), and PCO CLIENT MANAGEMENT, INC (hereinafter "PCOM").

WITNESSETH:

WHEREAS, on March 31, 2008, a group of creditors filed involumary petitions for relief under Chapter 7 of the Bankruptcy Code against Ulrich Felix Anton Engler k/k/a Richie Engler and Private Commercial Office, Inc. (hereinafter sometimes referred

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to individually as "Engler" and "PCO," respectively, or collectively as the "Debtors") with the United States Bankruptcy Court for the Middle District of Florida, Fort Myers Division (hereinafter the "Bankruptcy Court"), Case No. 9:08-bk-04360-ALP;

WHEREAS, on April 29, 2008, the Court entered Orders for Relief against the Debtors;

WHEREAS, on June 24, 2008, the Court entered an Order substantively consolidating the assets and liabilities of the Debtors' bankruptcy estates;

WHEREAS, the Trustee was appointed and currently serves as the permanent Chapter 7 Trustee for the Debtors' bankruptcy estates;

WHEREAS, on July 7, 2008, the Trustee filed an adversary proceeding to avoid and to recover alleged fraudulent transfers by the Debtors to Fuchs with the Bankruptcy Court, Case No. 9:09-ap-00632-ALP (hereinafter the "Fraudulent Transfer Litigation");

WHEREAS, Fuchs has consistently disputed her liability for the claims asserted in the Fraudulent Transfer Litigation;

WHEREAS, the Trustee and Fuchs have determined that it is in their best interests to resolve their disputes and the Fraudulent Transfer Litigation pursuant to the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the mutual promises, the performance of the covenants and agreements bereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto represent, warrant, consent, and agree as follows:

ADOPTION OF RECITALS. The parties hereto adopt the above recitals
as being true and correct, and they are incorporated herein as material parts of this
Scuttement Agreement.

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2. CONDITIONS PRECEDENT TO SETTLEMENT. The parties knowledge and agree that the terms of this Settlement are subject to satisfaction of the flowing conditions precedent: (a) Fuchs' truthful and complete disclosure of the nature ad extent of her relationship with the Debtors as well as the circumstances surrounding e formation, ownership, operation, assets and liabilities of PCOM during a face-to-face peeting with the Trustee's special counsel in Germany (Dr. Annerose Tashiro, Schultze Braun, EisenbahnstraBe 19-23, 77855 Achern, Germany) at a munually convenient tate and time within thirty (30) days of execution of this Settlement Agreement; (b) fuchs' execution of a Financial Affidavit (in a form reasonably acceptable to the Trustee) under penalty of perjury that fully discloses the nature, extent, and whereabouts of her and, to the best of her knowledge and belief, PCOM's legal, contractual, and equitable rights, title and interests wherever situated; (c) Fuchs' assignment of her individual rights in and related to PCOM as well as PCOM's legal, contractual, and equitable rights, title of the gand interests to the Trustee (but not including her personal assets identified in the Financial Affidavit); (d) Fuchs' consent to the substantive consolidation of PCOM with and into the Debtors' bankruptcy estates nunc pro tunc to March 31, 2008 (such consent having been provided by Fuchs on April 19, 2010 and having been embodied in the Court Order entered on April 23, 2010 [D.E. 242]); and (e) entry of an Order by the Bankruptcy Court granting the Trustee's Motion to Compromise Controversy in accordance with the erms of this Settlement Agreement.

3. SALE OF REAL PROPERTY AND PAYMENT OF NET SALES ROCEEDS. Fuchs will undertake her best efforts to close the sale of her real property ocated at 430 S.E. 24th Street, Cape Coral, Florida 33990 (hereinafter the "Real roperty") to Dieter Szurowski and Hubertus von Falkenhausen on May 31, 2010 or on 10 the other date mutually agreed to by the parties, including the Trustee, in writing

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interested the "Closing Date"). Prior to the Closing Date, Fuchs shall inform the latter of the identity of the closing agent and shall instruct the closing or title agent to the net proceeds estimated Seventy Five Thousand and 00/100 Dollars (\$75,000.00) means of a wire transfer or cashier's check drawn on a nationally recognized bank or handled institution with a local office in Lee or Hillsborough County, Florida or in other himediately available funds) to the Trustee on behalf of the Debtors' bankruptcy estates in the Closing Date in exchange for the Trustee's release of the lis pendens recorded on he Real Property in conjunction with the filing of the Fraudulent Transfer Litigation hereinafter the "Net Sales Proceeds"). If said sale does not close, Fuchs shall convey fee imple title to the Real Property to the Trustee by means of a Quit Claim Deed.

- 4. <u>DISMISSAL OF FRAUDULENT TRANSFER LITIGATION</u>. Upon satisfaction of the conditions precedent set forth hereinabove in numbered paragraph 2 and consummation of the transactions contemplated in this Settlement Agreement, the Trustee shall cause the Fraudulent Transfer Litigation to be dismissed with prejudice, with each party bearing its own attorneys' fees and court costs associated therewith. Pending approval of this Settlement Agreement and satisfaction of the conditions precedent set forth hereinabove at numbered paragraph 2, the parties agree to abate the Fraudulent Transfer Litigation.
 - 5. CLOSING OF SETTLEMENT AGREEMENT. The consummation of the transactions contemplated by this Settlement Agreement (the "Settlement Closing") shall be conducted at the offices of Stephen R. Leslie, Esq., Stichter, Riedel, Blain & Prosser, P.A., 110 East Madison Street, Suite 200, Tampa, Florida 33602 within thirty (30) days after satisfaction of the conditions precedent set forth hereinabove in numbered paragraph of a such other time, date and place as may be mutually agreed to in writing by the

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parties. The date on which the Settlement Closing actually occurs is referred to herein as the "Settlement Closing Date."

- 6. COVENANTS, REPRESENTATIONS, AND WARRANTIES.
- (a) AUTHORITY RELATIVE TO THIS AGREEMENT. The individuals executing this Settlement Agreement on behalf of Fuchs and PCOM have the full power and lawful authority to execute and deliver this Settlement Agreement, to perform the obligations hereunder, and to consummate the transactions contemplated hereby, as well as all of the other documents executed or delivered, or to be executed or delivered, by Fuchs and PCOM in connection herewith (collectively, with this Agreement, the "Settlement Documents"). The execution and delivery of this Settlement Agreement by Fuchs and PCOM and the consummation by them of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Fuchs and no other corporate proceedings are necessary to authorize this Settlement Agreement or to consummate the transactions contemplated hereby. Each of the Settlement Documents to which Fuchs and PCOM are, or will be, a party has been, or will be, duly and validly executed and delivered by Fuchs and PCOM, and, assuming the due authorization, execution and delivery of the Settlement Documents by the other parties, are (or when executed and delivered will be) legal, valid and binding obligations of Fuchs and PCOM.
- (b) Fuchs and PCOM represent and warrant to the Trustee that:
 - (1) REAL PROPERTY.

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- (i) MAINTENANCE. Fuchs shall maintain, preserve, and keep the Real Property in the same condition and state of repair, reasonable wear and tear or damage or loss by fire, storm, or other casualty loss excepted, up to and including the Closing Date.
- (ii) RISK OF LOSS. Fuchs shall bear the entire risk of loss or damage to the Real Property, by any cause, up to and including the Closing Date.
- TAXES, INSURANCE, MAINTENANCE AND HOA (iii) FEES. Fuchs represents, warrants, and covenants that the only outstanding obligations on the Real Property consist of the Pirst Mortgage in favor of Orion Bank in the original principal amount of \$130,000.00, 2009 real estate taxes in the amount of \$5,351.17, and a Warrant For Collection Of Delinquent Tourist Development Tax in the amount of \$1989.64 (collectively, the "Encumbrances"). Funhs represents, warrants, and covenants that she has not previously conveyed any interest in the Real Property to any individual and/entity, that the Real Property has not been the subject of any pending foreclosure proceedings in the preceding twelve months, that she has not given any individual and/or entity a Daed in Lieu of Foreclosure on the Real Property, and that the Encumbrances shall be paid out of the sales proceeds on the Closing Date referenced hereinabove in numbered paragraph 3. Fuchs further represents, warrants, and covenants that the Real Property is fully insured.

there are no actions, suits, proceedings, claims or investigations pending or, to the knowledge of Fuchs and PCOM, threatened against either Fuchs, PCOM, or their assets before any court, arbitrator or governmental entity that (A) questions or involves the legality, validity or enforceability of any of Fuchs' or PCOM's obligations under any Settlement Documents or the consumptation of the transactions contemplated by this Settlement Agreement or thereby; (B) seeks to prevent, delay or otherwise adversely affect the consummation by Fuchs and PCOM of the transactions contemplated by this Settlement or thereby; or (C) is reasonably likely to have a material adverse effect on the transactions contemplated by this Settlement Agreement or thereby.

Trustee and his successors and assigns, harmless against any and all loss, injury, liability, claim, damage or expense (including, without limitation, reasonable attorneys' fees and the fees and expenses of expert witnesses and other consultants), interest, court costs and amounts paid in settlement of claims, suffered by the Trustee or his successors or assigns but only those resulting from, relating to or arising out of any of the following: (a) Any material failure to perform by Fuchs and PCOM of any of their obligations under this Settlement Agreement; (b) Any material inaccuracy in or material breach of any of the representations, warranties,

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covenams or agreements made by Fuchs and PCOM hereunder; and (c) Any material inaccuracy or misrepresentation in any certificate or affidavit delivered by Fuchs and PCOM in accordance with the provisions of any paragraph hereof, parties hereto acknowledge that the provisions of this section serve as a material inducement to the Trustee to execute this Settlement Agreement and consummate the transactions contemplated hereby and shall expressly survive the Closing hereunder.

- 7. CONDITION SUBSEQUENT TO SETTLEMENT. The parties acknowledge and agree that the terms of this Settlement are subject to satisfaction of the condition subsequent that Fuchs fully cooperate in good faith with the Trustee in connection with the investigation, commencement, and maintenance of claims against third parties. Fuchs shall provide truthful testimony, shall appear for meetings or court appearances at musually convenient dates and times without the necessity of a subpoena (by means of videoconferencing or telephone, as appropriate), and shall provide access to and copies of all relevant files, reports, evidence and documents as reasonably required by the Trustee. The parties recognize that Fuchs resides in Germany and lacks the means to travel to the United States.
- SURVIVAL. All covenants, agreements, representations and warranties 8. made herein and in any document or certificate delivered herewith pursuant to or in connection with this Settlement Agreement shall survive, and thereby shall continue in full force and effect for a period of one (1) year from the Settlement Closing Date, notwithstanding any investigation made by or on behalf of the Trustee.
- NOTICES. Any notice required or permitted to be given pursuant to any rovision of this Agreement shall be given in writing and delivered in person or sent by



registered or certified mail, postage prepaid and return receipt requested, to the parties at the address set forth below:

If to the Trustee:

Robert E. Tardif, Jr., Trustee Law Offices of Robert E. Tardif 1533 Hendry Street, Suite 300

Fort Myers, FL 33901

With a copy to:

Robert F. Elgidely, Esq.

Genovese, Joblove & Battista, P.A. 200 East Broward Boulevard, Suite 1110

Fort Lauderdale, Florida 33301

If to Fuchs:

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Stephen R. Leslie, Esq. Stichter, Riedel, Blain & Prosser, P.A. 110 East Madison Street, Suite 200

Tampa, Florida 33602

or to such other address as the party to whom notice is to be given may, from time to time, designate in writing delivered in a like manner. All such notices shall be deemed received as of the date of personal delivery or five (5) days following deposit in the U.S. Mail.

- 10. WAIVER. The failure of either party to enforce any provision or provisions of this Settlement Agreement shall not in any way be construed as a waiver of any such provision or provisions as to any future violations thereof, nor prevent that party thereafter from enforcing each and every other provision of this Settlement Agreement. The rights granted the parties herein are cumulative and the waiver of any single remedy shall not constitute a waiver of such party's right to assert all other legal remedies available to it under the circumstances. No extension of time of performance of an act or obligation under this Settlement Agreement shall constitute an extension of time of performance of any other act or obligation.
- 11. GOVERNING LAW AND JURISDICTION. The parties acknowledge and agree that the Bankruptcy Court, and the State and Federal Courts in Florida, have in

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personam jurisdiction over them and in rem jurisdiction over the Real Property of Settlement Agreement shall be deemed to be made and entered into in the State of Florida, and shall in all respects be interpreted, enforced and governed under the laws of Florida, without giving effect to the conflict of laws principles of Florida law.

- 12. <u>ATTORNEYS' FEES AND COSTS</u>. In any litigation arising out of or relating to this Settlement Agreement, or to the interpretation or enforcement hereof, the prevailing party(ies) shall be entitled to recover the prevailing party's(ies') attorneys' fees and court costs from the non-prevailing party(ies) at the trial and at all appellate levels.
- agreement between the parties relating to the subject matter hereof and it supercedes any prior agreements or understandings, whether oral or written, between the parties or with respect to the subject matter hereof. This Settlement Agreement may not be modified or amended orally or by any course of conduct or usage of trade but only by an agreement in writing duly executed by the parties hereto. The parties acknowledge that no one has made any representations or promises to them, other than those in or referred to by this Settlement Agreement, and that they are not relying on any representations or promises not set forth herein in executing this Settlement Agreement. Moreover, each party hereto is represented by that party's own counsel and has had the benefit of such counsel's advice in reviewing, commenting upon, and modifying this Settlement Agreement. The parties specifically acknowledge that there are no language barriers impeding their understanding and comprehension of this Settlement Agreement prior to execution thereof.
- 14. <u>MODIFICATION OR AMENDMENT</u>. No amendment, change or modification of this Settlement Agreement, nor waiver of any provision of this

Settlement Agreement, shall be valid unless it is in writing, signed by each of the parties and/or the party's counsel.

- 15. AMBIGUITY. In the event that an ambiguity or question of intent or interpretation arises, this Settlement Agreement shall be construed as if crafted jointly by each of the parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Settlement Agreement.
- HEADINGS. The headings contained herein are solely for the purpose of reference, are not part of this Settlement Agreement, and shall not in any way affect the meaning or interpretation of this Settlement Agreement. When used herein, the phrase "Fuchs" includes her affiliates (as such term is defined in the Bankruptcy Code) and its/their their predecessors, successors, parents, subsidiaries (direct or indirect), divisions, groups and other operational or functional units, each officer, director, employee, agent, or representative of any of the foregoing entities, and each person acting or authorized to act on behalf of any of the foregoing (past or present).
- 17. <u>COUNTERPARTS</u>. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- 18. <u>EFFECTIVE DATE</u>. This Settlement Agreement shall be effective as of the date of the last signatory to the agreement.
- 19. <u>COOPERATION</u>. The parties hereto agree to cooperate fully in the execution of any documents or performance in any way which may be reasonably necessary to carry out the purposes of this Settlement Agreement and to effectuate the intent of the parties hereto.



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- 20. TIME IS OF THE ESSENCE. The time for performance of the parties hercunder is of the essence of this Settlement Agreement.
- BENEFIT AND BINDING EFFECT. This Settlement Agreement shall imure to the benefit of and shall be binding upon the parties, their heirs, successors, and/or permitted assigns. The individuals signing below on behalf of entities represent and warrant that they have the full authority to bind their respective entities to all of the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on the date first written above.

Robert E. Tardif, Jr., as Trustee for the Chapter 7 Bankruptcy Estates of Ulrich Felix Anton Engler and	Signed, sealed, and delivered in the presence of the following witnesses:
Private Commercial Office, Inc. Dated:	(witness) Print Name:
	(witness) Print Name:
PCO CLIENT MANAGEMENT, INC.	
By: Angelika Neumeièr-Fuchs	Allew Allaws
Its: Dated:	Angelika Neumeier-Fucks Dated:
Signed, sealed, and delivered in the presence of the following witnesses:	Signed, sealed, and delivered in the presence of the following witnesses:
(witness) Print Name:	(witness) Print Name:
	E IMIL INMING.
(witness)	(witness)
Print Name:	Print Name:

DRN: #1 1053 /2010

I hereby destify that this document was sigend in my presence by

Mrs. Angelika Fuchs, born on 10.11.1957, of 83564 Soyen, Essbaumstraße 17 identified by her Passport No. CF 8880N5V.

Haag i.OB, 02rd July 2010

Wolfgang Barth

Notary



DR. WOLFGANG BARTH NOTAR

Krankenhausstraße La 83527 Haug L OB

Telefon (0k072) 9183 - 0 Telefix (08072) 1001 mail@notar-bang.de

Noter Dr. Barth . Krankenhausstraffe 1a . 83527 Hang i. OB

Frau Angeliku Fuchs Essbaumstraße 1 83564 Soyen Unser Zeichen: 1053/10 H Sachbearbeiter: Frau Bruckbauer Durchwahl: (08072) 9183 - 0

USt-Nr.: (4) 202 61 100 USt-IdNr.: DE 254495462

Datum: 02.07,2010

Unterschriftsbeglaubigung ohne Entwurf vom \$2.07.2010, URNs. 1053/40 B

Sahr goebate Fran Fuchs,

für meine Amsstätigkeit in oben buzelchneter Angelegenheit sind nach den Bestimmungen der Kostonordaung für Gerichte und Notare (KostO) folgende Gebühren und Auslagen angefallen, die sofort zur Zahlung fällig sind:

§§ der KostO	Bezeichpung	Wert#	Gub@br€
§ 45 Abs. 1	Unterschriftsbeglaubigung ohne Entwurf	3.000_00	10,00
Summe der umaatzeteverpflichti	gen Berrige		10,00
Umeacastouer 19 %			1,90
Rechaungsbetrag			11,50

Bitte überweisen Sie den Rechnungsbetrag in Hähe von 11,90 unter <u>Angabe der Rechnungs-Nr.: 1053/10 B = 7858</u> auf eines der unten angegebenen Konten.

Nach § 14 Abs. 4 Saiz I Nr. 9 UStG sind Sio verpflichtet, diese Rechnung mindestens zwei Jahre (als imasaizsteogrpflichtiger Unterachmer zehn Jahre) lang aufzubewahren. Die Aufbewahrungsfrist beginnt mit Schluss dieses Katenderjahres.

Mir freundlichen Grüßen

Dr. Barth, Notar

Betrag bar erbalten: 02.07.2010

Dr. Wolfgang Barth
Noter
Krankenhausstruge
83527 Hasg i. OB

Ruitfelsenbank Huag-Gars-Maitembeth cG	
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Raiffeisen- Volksbook Isen-Sempt eG	BI J. 701 696 05 Kento-Nr. 101052
Raiffeisenbank St. Wolfgang-Schwindkirchen eG -	BLZ 701 695 38 Kimio-Nr. 512974
Kraisspurkusse Mühldorf a Ira	
Kreis- und Stadtsparkusse Wasserburg a. Inn	BLZ 711 526 80 Konto-No. 38166

SRBP Stichter, Riedel, Blain & Prosser P.A. Attorneys at Law

B. MICHAEL BACHMAN, JR. RUSSELL M. BLAIN BECKY FERRELL-ANTON DANIEL R. FOGARTY AMY DENTON HARRIS BARBARA A. HART MICHAEL J. HOOT **ELENA PARAS KETCHUM** STEPHEN R. LESLIE EDWARD J. PETERSON, III CHARLES A. POSTLER RICHARD C. PROSSER HARLEY E. RIEDEL, II SUSAN H. SHARP DON M. STICHTER SCOTT A. STICHTER

TO:

Tampa & Fort Myers 110 E. Madison Street Suite 200 Tampa, Florida 33602-4700 T 813.229.0144 F 813.229.1811

1342 COLONIAL BLVD SUITE H57 FORT MYERS, FLORIDA 33907-1009 T 239.939.5518 F 239.939.5568

www.srbp.com

Robert Farouk Elgidely, Esquire

FAX COVER SHEET

July 9, 2010

FAX NO.	954-453-80	10	
FROM:	Stephen R.	Leslie, Esquire	
RE:	Tardif, Jr. vs. Angelika Neumeier-Fuchs		
NO. OF PAGES;	15 ((including this page)	CLIENT CODE:
MESSAGE:		ease find a copy of thuchs, which has been	ne Motion to Compromise with Ms.
Original to follow vi	a regular mail	⊠Original will not follow	Original to follow via ovemight mail

If you do not receive all of the pages, please call (613) 229-0144 immediately

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