



The relief described hereinbelow is SO ORDERED.

SIGNED this 15th day of November, 2017.

Robert D. Berger
Robert D. Berger
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS AT KANSAS CITY**

In re:)
)
JOHN Q. HAMMONS FALL 2006, LLC, *et al.*,) Case No. 16-21142
)
Debtors.)
)
)

**ORDER GRANTING MOTION FOR APPROVAL OF INTENDED COMPROMISE
WITH BILL DEAN BRETCHES PURSUANT TO FED. R. BANKR. P. 9019**

This matter comes before the Court on the motion (ECF Doc. 1431) (the "Motion")¹ of the above-captioned debtors (collectively, the "Debtors") for entry of an order (this "Order"), pursuant to Fed. R. Bankr. P. 9019, approving a settlement between John Q. Hammons Hotels Management, LLC ("JQHMH") and Bill Dean Bretches ("Bretches"); the Court having reviewed the Motion; the Court having determined that the relief requested in the Motion is in the best interests of Debtors, their estates, their creditors and other parties-in-interest; cause exists to

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

grant the relief requested in the Motion; it appearing that notice of the hearing on the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given; it appearing that are no objections to the Motion; and upon the record herein; and after due deliberation thereon; therefore, it is hereby ORDERED THAT:

1. The Motion is GRANTED and the Court approves the proposed compromise and settlement set out in the Motion between JQHHM and Bretches as fair and equitable.

2. Upon satisfaction of the conditions set forth in the Settlement Agreement, Bretches shall be granted an allowed general unsecured claim in the bankruptcy estate of JQHHM only in the amount of \$137,500.00. Bretches shall have no claim in the bankruptcy cases of the other Debtors.

3. JQHHM is authorized to execute any other documents as may be necessary or convenient to effectuate the terms of the Settlement Agreement.

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SUBMITTED BY:

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COUNSEL FOR THE DEBTORS

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS AT KANSAS CITY**

In re:)
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JOHN Q. HAMMONS FALL 2006, LLC, et al.,) **Case No. 16-21142**
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Debtors.)
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**MOTION FOR APPROVAL OF INTENDED COMPROMISE WITH BILL DEAN
BRETCHES PURSUANT TO FED. R. BANKR. P. 9019**

NOW COME John Q. Hammons Hotels Management, LLC ("JQHBM"), one of the above-captioned debtors (collectively, the "Debtors"), and hereby requests the entry of an order, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), approving a settlement and compromise between JQHBM and Bill Dean Bretches ("Bretches"). In support of this motion, JQHBM represents as follows:

BACKGROUND

1. On June 26, 2016 and July 5, 2016, the Debtors commenced chapter 11 bankruptcy cases by filing their bankruptcy petitions in this Court. For purposes of this Motion, all the Debtors shall refer to June 26, 2016 as the "Commencement Date."
2. Since the Commencement Date, the Debtors have continued in possession of their property and control of their operations pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
3. The Court has jurisdiction of this motion. 28 U.S.C. § 1334(b). This is a core proceeding in that this motion affects the administration of these bankruptcy estates. 28 U.S.C. §§ 157(b)(1) & (2)(A). Venue is proper in this Court. 28 U.S.C. § 1409(a).
4. Prior to the Commencement Date, Bretches was employed by JQHBM at one of the hotels owned by the Debtors.

5. Bretches' employment by JQHMM was terminated after the Commencement Date and Bretches made certain allegations against JQHMM and filed claims with the Equal Employment Opportunity Commission arising out or related to his employment. JQHMM denied these allegations and further denied any and all liability to Bretches.

6. On August 17, 2017, JQHMM and Bretches held a mediation in an attempt to resolve their disputes and on October 6, 2017, executed a Confidential Settlement and Release Agreement (the "Settlement Agreement"). A true and correct copy of the Settlement Agreement is attached hereto as Exhibit A.

7. Under the Settlement Agreement, Bretches releases JQHMM from any and all liability arising out of or related to his employment. In exchange for the release and the other terms set forth in the Settlement Agreement, JQHMM agrees that Bretches shall have an allowed general unsecured claim in JQHMM's bankruptcy case in the amount of \$137,500.00. Bretches shall have no claim in the bankruptcy cases of the other Debtors.

RELIEF REQUESTED

8. JQHMM requests that the Court approve the compromise set forth above in accordance with Fed. R. Bankr. P. 9019, which provides in relevant part:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

9. Fed. R. Bankr P. 9019 vests the Bankruptcy Court with broad authority to approve or disapprove all compromises and settlements affecting the bankruptcy estate.

10. A bankruptcy court's decision to approve a settlement must be an informed one based upon objective evaluation of developed facts. *Reiss v. Hagmann*, 881 F.2d. 890 (10th Cir. 1989). In reviewing a proposed settlement, the bankruptcy court considers the likelihood of success and

the expected delay caused by the litigation. *Id.* Compromises are favored in bankruptcy. *In re Southern Medical Arts Cos., Inc.*, 343 B.R. 250, 256 (B.A.P. 10th Cir. 2006). In *Southern Medical Arts*, the 10th Circuit BAP established the following four-prong test for evaluating compromises: "(1) the chance of success on the litigation on the merits; (2) possible problems in collecting the judgment; (3) the expense and complexity of the litigation; and (4) the interest of the creditors." *Id.*; *see also In re Kopexa Realty Venture Co.*, 213 B.R. 1020 (B.A.P. 10th Cir. 1997).

11. "The purpose behind compromises is to allow the trustee and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims." *Southern Medical Arts*, 343 B.R. at 255. The decision of whether to approve a proposed settlement is within the sound discretion of the Bankruptcy Court. *In re Flight Transportation Corporation Securities Litigation*, 730 F.2d 1128, 1136 (8th Cir. 1984); *In re Revelle*, 259 B.R. 905 (Bankr. W.D. Mo. 2001).

12. In determining whether to approve a proposed settlement, the Court does not substitute its judgment for that of the debtor, but instead should canvas the issues to determine that the settlement does not fall below the lowest point in the range of reasonableness. *In re Apex Oil Co.*, 92 B.R. 847, 866 (Bankr. E.D. Mo. 1988). The standard for approval of a compromise is whether the proposed compromise is "fair and equitable" and in the best interests of the estate. *Id.* The debtor's judgment in recommending a settlement should not be substituted as long as the settlement is reasonable. *Id.*; *see also In re Texas Extrusion Corp.*, 836 F.2d 217 (5th Cir. 1988).

13. JQHBM believes that the settlement set forth above is fair and equitable, in the best interest of creditors and the bankruptcy estate, and is an appropriate exercise of JQHBM's business judgment, after due consideration of alternative courses of action. The proposed

compromise resolves substantial issues among the parties and avoids the risks and costs inherent in litigation. Most importantly, the Settlement Agreement resolves what could have been a potential administrative claim against the Debtors' estates and limits such claim to a general unsecured claim to be filed in JQHMM's bankruptcy case only.

WHEREFORE, JQHMM requests that, pursuant Bankruptcy Rule 9019, the Court enter an order (a) approving the proposed Settlement Agreement between JQHMM and Bretches; and (b) granting such other and further relief as is just and proper.

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COUNSEL FOR THE DEBTORS

CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as "Agreement") is made and entered into by and between Bill Dean Bretches and John Q. Hammons Hotels Management, LLC d/ba John Q. Hammons Hotels & Resorts, referred to collectively as "the Parties."

1. DEFINITIONS.

The term "JQH" as used in this Agreement shall include John Q. Hammons Hotels & Resorts, John Q. Hammons Hotels Management, LLC, Richardson Hammons, LP, Renaissance Dallas Richardson Hotel, Beazley Group, Lloyd's of London, and their respective current and former partners, officers, directors, managers, members, third party administrators, servants, representatives, agents, administrators, executives, insurance carrier, franchisor, attorneys, employees, individuals acting in any capacity for JQH, predecessors, successors, assigns, parents, subsidiaries, affiliated or related entities, insurers, and its current and former partners, officers, directors, managers, members, third party administrators, servants, representatives, agents, administrators, executives, insurance carrier, franchisor, attorneys, employees.

"BRETCHES" shall include Bill Dean Bretches, himself, his heirs, executors, administrators, beneficiaries, estate, representatives, successors, assigns and all others claiming under him or through him.

"Charge" shall mean the charge(s) filed by Bill Dean Bretches with the United States Equal Employment Opportunity Commission, designated Charge No. 450-2017-02489.

The term "damages" means any and all elements of relief or recovery of whatsoever nature, which either party can or could have recover(ed) from the other party, whether known or unknown, recognized by the law of any jurisdiction and comprehensively includes, but is not limited to, actual, consequential, incidental and special damages of every description, such as economic loss, property loss or personal injury; any other item of loss or injury; statutory, treble, multiple, compensatory or punitive damages; damages resulting from any loss of employee benefits, overtime pay, retirement benefits, back pay, front pay, vacation pay and/or sick pay; attorneys' fees, punitive damages; pre-judgment or post-judgment or other interests; equitable relief; and expenses. The term "damages" also includes, but is not limited to, all elements of recovery or relief ever alleged, currently alleged or that might have been alleged as of the effective date of this Agreement. This definition further includes all elements of damages and all remedies that are now recognized by law or that may be created or recognized in the future in any manner, including without limitation by statute, regulation or judicial decision.

2. MUTUAL GENERAL RELEASE.

BRETCHES does hereby IRREVOCABLY AND UNCONDITIONALLY RELEASE, ACQUIT, AND DISCHARGE JQH, for any and all claims, including but not limited to claims, debts, damages, demands, liabilities, suits in equity, complaints, grievances, charges of discrimination, obligations, promises, agreements, rights, controversies, costs, losses, remedies,

attorneys' fees and expenses, owed wages, back pay, front pay, severance pay, vacation pay, benefits, bonuses, personal injuries, liquidated damages, punitive damages, mental anguish, reinstatement, and other compensation, suits, appeals, actions, and causes of action, of whatever kind or character, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* (including the Civil Rights Act of 1991), the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended, the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq.*, ADA Amendment Acts of 2008, the Fair Labor Standards Act, 29 U.S.C. § 201, *et. seq.*; the Age Discrimination in Employment Act, the Older Worker Benefit Protection Act, the Family Medical Leave Act, the National Labor Relations Act, the Immigration Reform and Control Act, the Occupational Safety and Health Act the Rehabilitation Act of 1974, the Equal Pay Act, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1000 *et. seq.*, the Texas Commission on Human Rights Act, Tex. Labor Code § 21.001 *et seq.*, Texas Labor Code § 61.001, Texas Payday Act, and for claims of defamation, harassment, retaliation, hostile work environment, discrimination on the basis of age, sex, race, disability, religion, national origin, sexual orientation, color, or veteran status, breach of contract, fraud, negligent misrepresentation, infliction of emotional distress, libel, defamation, slander, personal injury of whatever kind or character, and all other constitutional, federal, state, local, and municipal law claims, whether statutory, regulatory, common law, or otherwise, whether known or unknown, whether foreseen or unforeseen, fixed or contingent, liquidated or unliquidated, whether or not arising out of or in connection with the employment relationship between BRETCHES and JQH and whether or not asserted or assertable in the communication between the Parties, for or because of any matter or thing done, omitted, or suffered to be done by JQH, for any incidents, including those past and present, which arose prior to the effective date of this Agreement, or subsequent to the execution of this Agreement if arising out of conduct occurring before the execution of this Agreement ("Claims").

For the consideration of the claim allowance described below, the covenants contained herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged and confessed, BRETCHES hereby fully and completely compromises, settles, acquits, remises, releases and forever discharge JQH of and from all Claims which he now has or which may hereafter accrue or otherwise acquire, for or by reason of any matter, cause or thing whatsoever occurring prior to the date of this Agreement, whether known or unknown, suspected or unsuspected, arising out of or in any way connected with BRETCHES' employment with JQH. This Agreement specifically includes all Claims against JQH that occurred prior to the execution date of this Agreement and arose or may have arisen out of or relating in any way to his employment with JQH, past, present or future, known or unknown, whether based on tort, contract, statute, or any other theory of recovery for damages, relief or remedy of any sort.

Notwithstanding the above, nothing in this Agreement is intended to waive any claims that may not be waived by BRETCHES pursuant to applicable state and/or federal law.

BRETCHES hereby represents and confirms that he has not filed or otherwise initiated any lawsuit, complaint, charge, or other proceeding against JQH in any local, state, or federal court or agency based upon his employment with JQH other than the Charge. BRETCHES agrees not to institute any future suits or proceedings, at law or in equity, against JQH for any of

the Claims. Notwithstanding this release of liability, nothing in this Agreement prevents BRETCHES from participating in any investigation or proceeding conducted by the EEOC or comparable state or local agency; however, BRETCHES understands and agrees that BRETCHES is waiving any and all rights to recover any monetary or personal relief or recovery, or any other remedy, as a result of such EEOC or comparable state or local agency or proceeding or subsequent legal administrative actions under state or federal law.

Likewise, JQH hereby IRREVOCABLY AND UNCONDITIONALLY RELEASES, ACQUITS, AND FOREVER DISCHARGES BRETCHES and his current and former heirs, successors, assigns, principals, agents, transferees, attorneys, representatives, guardians, executors, administrators, insurers, servants, and agents, from all rights, claims, causes of action, and damages whatsoever, whether connected with BRETCHES'S claims or not, including but not limited to any dispute, claim, charge, or cause of action for breach of contract, or any claims or causes of action arising under any local, state, or federal law, common or statutory, whether arising in contract or tort, for any actions or omissions whatsoever, which existed or may have existed prior to, or contemporaneously with, the Effective Date of this Agreement.

3. NO ADMISSION OF LIABILITY.

BRETCHES further acknowledges that JQH has expressly denied and continues to deny all allegations made by BRETCHES in, or in connection with his Charge and that the claim allowance described below, and any other actions taken by JQH in connection therewith shall not be deemed to be, or construed as, an admission of liability of JQH or an admission of the truthfulness of any of the allegations made by any party. BRETCHES acknowledges that said actions have been taken in order to avoid the expense and inconvenience of further prosecution of BRETCHES's Charge and/or possible subsequent lawsuit. The Parties expressly agree that there is no admission of liability as to any wrongdoing by either Party.

4. EFFECT OF BANKRUPTCY

BRETCHES understands and acknowledges that JQH and certain of its affiliates have commenced chapter 11 bankruptcy cases in the United States Bankruptcy Court for the District of Kansas (the "Bankruptcy Court") jointly administered under *In re John Q. Hammons Fall 2006, LLC*, Case No. 16-21142 (the "JQH Bankruptcy").

BRETCHES understands and acknowledges that the payment of the Bretches Claim (defined in Section 5 below) shall be governed by the provisions of any plan filed and confirmed in the bankruptcy case of John Q. Hammons Hotels Management, LLC, Case No. 16-21153 (the "JQHBM Bankruptcy Case").

BRETCHES understands and acknowledges that the amount ultimately paid to BRETCHES pursuant to this Agreement will be determined by the Bankruptcy Court and may be less than the Bretches Claim amount set forth in Section 5. If the Bankruptcy Court reduces the amount paid to BRETCHES, such determination will be binding on the Parties and will not constitute a breach of this Agreement.

In the event the Bankruptcy Court does not approve the settlement, this Agreement is null and void. However, in the event the Bankruptcy Court does not approve the settlement, the Parties agree to participate in another mediation.

JQH agrees to request approval of the settlement at the next regularly scheduled omnibus hearing after the execution of this Agreement and to use its best efforts to have the settlement approved by the Bankruptcy Court.

5. ALLOWANCE OF BRETCHES CLAIM, PAYMENT, AND INDEMNIFICATION.

a. Subject to Section 4, in exchange for the releases described in this Agreement, BRETCHES shall have an allowed general unsecured claim in the JQHBM Bankruptcy Case in the amount of \$137,500.00 (the "Bretches Claim"). Payment of the Bretches Claim shall be made in accordance with, in the amounts set forth under, and at the times provided for, in any plan confirmed by the Bankruptcy Court in the JQHBM Bankruptcy Case. All payments made on the Bretches Claim shall be in full and final satisfaction of any monies owed, or that could be owed to BRETCHES in the JQH Bankruptcy. Any payment made on account of the Bretches Claim will be paid jointly to Bill Bretches and Gillespie Sanford, LLP.

b. BRETCHES acknowledges and agrees that he shall have no other claim against JQH or any affiliate of JQH, including but not limited to the debtors who have collectively commenced the JQH Bankruptcy. BRETCHES hereby waives any claims he may have against any JQH entity other than the Bretches Claim to be allowed in the JQHBM Bankruptcy Case.

c. BRETCHES acknowledges and agrees that any distribution made to BRETCHES on account of the Bretches Claim shall be governed by any plan confirmed by the Bankruptcy Court in the JQHBM Bankruptcy Case and BRETCHES shall not be entitled to any payment, compensation or distribution other than on the terms and conditions set forth in any plan confirmed by the Bankruptcy Court in the JQHBM Bankruptcy Case.

d. BRETCHES shall be solely responsible for all income and payroll tax requirements, if any, with respect to any distributions made to BRETCHES on account of the Bretches Claim, if any. In the event that any distribution made to BRETCHES on account of the Bretches Claim is found to be subject to taxes, BRETCHES agrees that he will be responsible for paying any such unpaid taxes and related penalties and interest owed on those amounts. **BRETCHES AGREES TO INDEMNIFY AND HOLD JQH HARMLESS FROM ANY AND ALL LOSS, INCOME TAXES, COSTS, EXPENSES, INTEREST, PAYMENTS OR PENALTIES, IF ANY, INCURRED BY JQH AS A RESULT OF NOT WITHHOLDING TAXES FROM ANY DISTRIBUTIONS MADE TO BRETCHES ON ACCOUNT OF THE BRETCHES CLAIM SET FORTH IN THIS AGREEMENT OR NOT PAYING ANY TAXES OWING ON SUCH DISTRIBUTIONS, IF ANY, TO ANY TAX AUTHORITY.**

BRETCHES agrees that JQH has not made any representations to him regarding the tax consequences of any amounts received by him pursuant to this Agreement.

e. BRETCHES affirms and expressly represents that: (i) he has received all leaves (paid and unpaid) that he was owed or ever could be owed in the course of, and pursuant to, his employment with JQH; and (ii) he has received all compensation, wages, bonuses, commissions, contract payments, benefits and other sums to which he has been or ever could be entitled from JQH, with the exception of the amount of the Bretches Claim set forth in Section 5(a) above. As such, BRETCHES acknowledges that he has no claim for any such compensation, reimbursement or benefits of employment.

f. Except as provided in Paragraph 5(a) above, each party shall bear its own costs and attorneys' fees.

g. BRETCHES agrees to withdraw his Charge within seven (7) business days of his receipt by himself and his counsel of payment for the Bretches Claim.

h. The Parties agree that BRETCHES voluntarily resigned his employment with JQH and JQH did not terminate him.

6. CONFIDENTIALITY.

BRETCHES agrees to keep STRICTLY CONFIDENTIAL and not to further disclose or publish in any form or fashion the facts, allegations, and contentions of the Charge. BRETCHES agrees to keep STRICTLY CONFIDENTIAL the amount, terms, or details of this Agreement until such time as the Bankruptcy Court approves this Agreement. BRETCHES agrees that he will not communicate or otherwise disclose same to any other person, including but not limited to, any member of the media or any employee of JQH (past, present, or future), except as to wife, children, tax advisors, accountants, or in an action to enforce or interpret this Agreement (in which case it shall be filed UNDER SEAL), as may be required by law or may be required to enforce this Agreement. BRETCHES agrees to advise anyone to whom disclosure is made as to this confidentiality provision, and shall not authorize anyone to make any disclosure with respect thereto. BRETCHES understands that such agreement forms part of the consideration to JQH in entering into this Agreement.

BRETCHES understands that such agreement forms part of the consideration to JQH in entering into this Agreement, and that such consideration is sufficient and valuable. BRETCHES acknowledges that this confidentiality provision is material to this settlement and a violation of this confidentiality provision will cause irreparable harm and damage to JQH. The amount of the Bretches Claim is not an estimation of the value of this provision; nor shall it be a determination of the value of a breach of this provision.

7. ACCORD AND SATISFACTION.

It is agreed and understood by the Parties that the consideration recited in this Agreement is accepted by BRETCHES in full accord and satisfaction of all damages which he alleges were caused by JQH.

BRETCHES further states that he understands this to be a full, final and complete settlement upon approval by the Bankruptcy Court and one which cannot be reopened at any time in the future regardless of what might take place or later occur.

8. WAIVER OF EMPLOYMENT RIGHTS.

BRETCHES waives and releases forever any right or rights he might have to apply for or seek employment, re-employment or reinstatement with JQH, its affiliates, subsidiaries, successors, and assigns. BRETCHES agrees that this Section 8 shall be and does constitute grounds for JQH not to hire BRETCHES. BRETCHES further agrees that if he seeks employment in violation of this paragraph and is hired by JQH, its affiliates, subsidiaries, successors or assigns, BRETCHES agrees that: (a) JQH shall have a legitimate and valid reason, and "good cause" to terminate BRETCHES without recourse; and (b) such reemployment of BRETCHES by JQH shall not constitute any waiver by JQH of this section 7 or of any other provision of this Agreement.

9. NEUTRAL EMPLOYMENT REFERENCE.

JQH agrees that upon inquiry, it will provide only a neutral reference regarding BRETCHES. The information provided in such reference shall be limited to (i) the inclusive dates of his employment with JQH, and (ii) the position held by BRETCHES at the time of his separation.

10. RETURN OF COMPANY PROPERTY

BRETCHES agrees to return to JQH within thirty (30) days after allowance of the Bretches Claim by the Bankruptcy Court any documents (and all copies thereof), badges, and confidential information. BRETCHES agrees to destroy, delete and permanently erase and remove all JQH confidential information and documents, in whatever form (e.g., electronic, paper, etc.), stored on any personal computer, smartphone, or any other electronic device, that has ever been or that is currently in his possession, custody, or control. This includes but is not limited to any documents provided to BRETCHES' counsel. "Confidential Information" includes trade secrets or confidential information of JQH, (in paper or electronic form), including, without limitation: materials, documents, policies, procedures, manuals, financial projections, financial information, financial records in any format (including Excel), bank records, pricing, costs, marketing, sales, business, and/or other strategies, plans or practices, designs, testing results, market or pricing studies, analysis and/or strategy, business and/or training manuals, business and/or financial information, audit processes, management methods and/or information, any original works of authorship by JQH, or other business information disclosed to BRETCHES by JQH or through any third party, either directly or indirectly, in writing, orally, or by drawings or observation.

11. MEDICARE.

BRETCHES represents and warrants that Medicare has made no conditional payments for any medical expenses or prescription expenses related to his employment with JQH. BRETCHES further states he is not nor has he ever been a Medicare beneficiary, is not currently receiving Social Security Disability benefits, has not applied for Social Security Disability benefits, has not been denied Social Security Disability benefits, has not appealed from a denial of Social Security Disability benefits, is not in End Stage Renal failure, and does not expect to become eligible for Medicare benefits within the next 30 months, and there are no liens, including but not limited to liens for medical treatment by hospitals, physicians or medical providers of any kind which have been filed for the treatment of injuries allegedly sustained as a result of her employment with JQH.

12. PAYMENT OF MEDICAL EXPENSES OTHER PAYMENTS.

BRETCHES further represents, warrants and agrees that all bills for doctor, hospital, drug expense, pharmaceutical expense, Medicare expense, Medicaid expense, chiropractic expense, physical therapy expense, psychiatric expense, psychological expense, or other medical expenses, past and future, for which anyone has or could set a lien upon the settlement have already been paid, and therefore there will be no unpaid bills. BRETCHES represents and warrants that he has complied with Chapter 55 of the Texas Property Code, if applicable. BRETCHES understands and agrees that he will pay and be solely responsible for

reimbursement and payment of any and all monies claimed due and owing, if any, by way of subrogation or otherwise from the consideration herein to reimburse any party, entity or organization, on account of benefits and/or medical expenses paid for or on behalf of BRETCHES under the provisions of Worker's Compensation laws, health or accident insurance policies, or other insurance policy or by any organization, entity or program, Federal, State or Municipal, which have paid benefits on account of the injury or disability made the basis, in whole or part, of his employment with JQH. BRETCHES further understands and agrees that, in the unlikely event there are outstanding medical expenses or other payments relating to his employment with JQH, BRETCHES will pay or be solely responsible for paying all expenses or costs, past and future, incurred by, for, or on behalf of BRETCHES relating to his employment with JQH.

13. INDEMNIFICATION.

- a. **BRETCHES AGREES TO AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS JQH FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND RELATING TO BRETCHES EMPLOYMENT WITH JQH, WHICH ARE, OR COULD HAVE BEEN, THE SUBJECT MATTER OF THE CHARGE, WHETHER SUCH CLAIMS ARE MADE DIRECTLY OR INDIRECTLY, FOR CONTRIBUTION, INDEMNITY, CREDITS AND/OR OFFSETS, RIGHTS OF SUBROGATION, ASSIGNMENT OR OTHERWISE.**

- b. **BRETCHES FURTHER EXPRESSLY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS JQH FROM ANY LIABILITY OR CLAIM OF LIABILITY, DEMANDS, CAUSES OF ACTION OR JUDGMENT, AND ANY STATUTORY, CONTRACTUAL OR COMMON LAW SUBROGATION CLAIMS OR LIENS, INCLUDING BUT NOT LIMITED TO ALL HOSPITAL LIENS, DOCTOR EXPENSE, HOSPITAL EXPENSE, DRUG EXPENSE, PHARMACEUTICAL EXPENSE, MEDICARE OR MEDICAID LIENS, ERISA CLAIMS, CHIROPRACTIC EXPENSE, PHYSICAL THERAPY EXPENSE, PSYCHIATRIC EXPENSE, PSYCHOLOGICAL EXPENSE, MEDICAL EXPENSES, SOCIAL SECURITY DISABILITY LIENS, HEALTH INSURANCE LIENS, FEDERAL STATE OR GOVERNMENTAL LIENS RELATED TO SUCH EXPENSES OR BENEFITS PAID FOR OR ON BEHALF OF BRETCHES, KNOWN OR UNKNOWN, ATTORNEY GENERAL LIENS, CHILD SUPPORT LIENS, AND TAX LIENS, PENALTIES OR ASSESSMENTS. BRETCHES FURTHER HOLDS JQH HARMLESS FROM ANY AND**

ALL ADVERSE CONSEQUENCES IN THE EVENT THIS SETTLEMENT RESULTS IN THE LOSS OF RIGHT TO SOCIAL SECURITY AND/OR MEDICARE BENEFITS TO THE EXTENT BRETCHES WOULD HAVE BEEN ENTITLED TO THOSE BENEFITS IN THE ABSENCE OF THIS AGREEMENT.

- c. BRETCHES AGREES TO INDEMNIFY JQH FOR ALL COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO, THE AMOUNTS OF SAID CLAIMS AND THE COST OF DEFENDING THEM, INCLUDING ATTORNEYS' FEES AND COURT COSTS. IT IS THE INTENT OF THE PARTIES THAT ALL INDEMNITY OBLIGATIONS AND LIABILITIES ASSUMED IN THIS AGREEMENT ARE WITHOUT MONETARY LIMIT.
- d. THE OBLIGATIONS TO DEFEND, INDEMNIFY, AND HOLD HARMLESS SHALL BE ENFORCEABLE WITHOUT REGARD TO THE ACTUAL OR ALLEGED NEGLIGENCE, GROSS NEGLIGENCE OR OTHER FAULT OF JQH, WHETHER THE NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE; IT BEING THE EXPRESS INTENTION OF BRETCHES TO DEFEND, INDEMNIFY AND HOLD HARMLESS JQH FROM THE CONSEQUENCES OF ITS OWN ACTUAL OR ALLEGED NEGLIGENCE, GROSS NEGLIGENCE OR OTHER FAULT, INCLUDING THE SOLE NEGLIGENCE OF JQH.

14. NO RESERVATION OF RIGHTS.

In construing this Agreement, BRETCHES stipulates and agrees that it is his intent to release and discharge and forever hold JQH harmless from any and all claims, controversies and causes of action and any and all disputes that occurred prior to the execution of this agreement between BRETCHES on the one hand, and JQH on the other hand, without any reservation of rights whatsoever.

15. WAIVER.

One or more waivers of a breach of any covenant, term, or provision of this Agreement by any Party shall not be construed as a waiver of a subsequent breach of the same covenant, term or provision, nor shall it be considered a waiver of any other then existing, preceding, or subsequent breach of a different covenant, term, or provision.

16. SEVERABILITY.

If any portion of this Agreement should be held by any court of competent jurisdiction to be invalid or unenforceable for any reason, the balance of this Agreement shall remain in full force and effect.

17. AUTHORITY AND REPRESENTATIONS.

BRETCHES hereby represents, acknowledges, and expressly warrants: (a) that he is legally competent and authorized to execute and carry out the terms of this Agreement; (b) that he is the sole legal owner of all right, title and interest in and to all claims which he has and/or may have asserted against JQH; (c) that he has full right and authority to execute this Agreement and bind to the Agreement his respective spouse; and (d) that he has not assigned, pledged, or otherwise in any manner, sold or transferred, or purported to assign or transfer, either by instrument in writing or otherwise, to any person or entity, any right, title, interest or claim, or any portion thereof, which BRETCHES has and/or may have against JQH, or may have by reason of any matter described in this Agreement, except for the assignment to his attorneys for payment of attorneys' fees, heirs, administrators, attorneys, representatives, executors, successors and assigns; (e) BRETCHES has not sought medical care or treatment because of the claims asserted in the Charge; (f) BRETCHES does not intend to seek medical care or treatment because of the claims asserted in the Charge; and (g) BRETCHES has not suffered any on-the-job injury for which he has not already notified JQH in writing and/or filed a claim as of the date of this Agreement.

18. STATEMENT OF UNDERSTANDING.

By executing this Agreement, BRETCHES acknowledges that (a) he has been advised to consult with an attorney prior to executing this Agreement; (b) he has consulted with, or has had sufficient opportunity to consult with, an attorney of its own choosing regarding the terms of this Agreement; (c) has had a reasonable period of time within which to consider the terms of the Agreement; (d) any and all questions regarding the terms of this Agreement have been asked and answered to its complete satisfaction; (e) he has carefully read this Agreement and fully understands its terms and their import and understands the full and binding effect of this Agreement; (f) he has at least 21 days to consider this Agreement before the execution and delivery hereof to JQH; (g) the consideration provided for herein is good and valuable and is in addition to anything of value to which BRETCHES is entitled in the absence of this Agreement; (h) he has entered into this Agreement voluntarily, of its own free will, and without any coercion, undue influence, threat or intimidation of any kind or type whatsoever; (i) the only promises made to him to sign this Agreement are those stated herein; and (j) no promise, inducement, pledge, or agreement, which is not stated herein has been made to BRETCHES in executing this Agreement, and BRETCHES is not relying upon any statement or representation, oral or written, of JQH, or any agent of JQH (including JQH's attorneys), and that BRETCHES is specifically waiving any fraudulent inducement claims and/or claims of reliance.

REVOCATION RIGHT. Notwithstanding the initial effectiveness of this Agreement, BRETCHES may revoke the delivery (and therefore the effectiveness) of this Agreement within

the seven-day period beginning on the date BRETCHES executes this Agreement (such seven day period being referred to herein as the "*Release Revocation Period*"). To be effective, such revocation must be in writing signed by BRETCHES and must be received by Stacy Bruce, attorney for JQH, before 11:59 p.m., C.S.T. on the last day of the Release Revocation Period. If an effective revocation is delivered in the foregoing manner and timeframe, this Agreement shall be of no force or effect and shall be null and void ab initio.

BRETCHES agrees that any modifications, material or otherwise, made to this Agreement **DO NOT RESTART OR AFFECT** in any manner the 21 time period for him to consider this Agreement.

19. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the Parties hereto, and the terms of this Agreement are contractual and not mere recitals.

20. GOVERNING LAW.

This Agreement is performable in Dallas County, Texas and shall be governed and construed according to the laws of the State of Texas, except where preempted by federal law.

21. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon all Parties, including but not limited to, their respective heirs, administrators, attorneys, representatives, executors, successors and assigns, and shall inure to their benefit.

22. COUNTERPARTS.

It is understood and agreed that this Agreement may be executed in multiple originals and/or counterparts, each of which shall be deemed an original for all purposes, but all such counterparts together shall constitute one and the same instrument. This Agreement may be executed and transmitted by facsimile or email attachment, and any such signatures shall be treated as an original.

23. CONSTRUCTION.

This Agreement shall be deemed drafted equally by the Parties. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties. As used in this Agreement, the singular or plural number shall be deemed to include the other whenever the context so indicates or requires. The terms of this Agreement are contractual and are not mere recitals. Headings in this Agreement are for the Parties' convenience and not intended to be used for construction.

24. EFFECTIVE DATE.

The effective date of this Agreement is _____, 2017.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by them and their duly authorized agents.

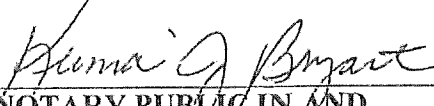


BILL DEAN BRETCHES

STATE OF TEXAS §
 §
COUNTY OF Dallas §

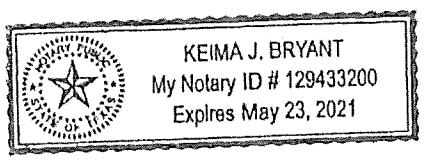
BEFORE ME, the undersigned authority, on this day personally appeared BILL DEAN BRETCHES, known to me to be the person whose name is ascribed in the foregoing instrument, and acknowledged to me he has read the foregoing and fully understands it to be a complete release of all claims as described therein, and an agreement of indemnity as described therein, and he executed same for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6 day of October, 2017.

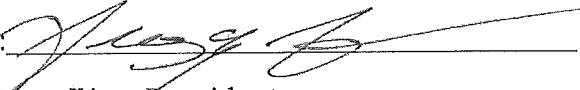


NOTARY PUBLIC IN AND
FOR THE STATE OF TEXAS

My Commission Expires:
May 23, 2021



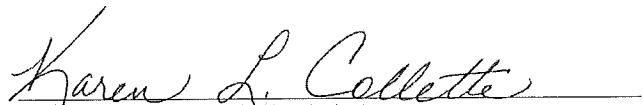
JOHN Q. HAMMONS HOTELS
MANAGEMENT, LLC

By: 
Title: Vice President

STATE OF MISSOURI §
 §
COUNTY OF GREENE §

BEFORE ME, the undersigned authority, on this day personally appeared Greggory D. Groves, Vice President of JOHN Q. HAMMONS HOTELS MANAGEMENT, LLC, known to me to be the person whose name is ascribed in the foregoing instrument, and acknowledged to me that it has read the foregoing and fully understands it to be a complete release of all claims as described therein, and an agreement of indemnity as described therein, and it executed same for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of October, 2017.


NOTARY PUBLIC IN AND
FOR THE STATE OF MISSOURI

My Commission Expires:

11/30/2018

