

## SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made as of October 27, 2010, by and between the Official Committee of Unsecured Creditors of Sofa Express, Inc. on behalf of the bankruptcy estate of Sofa Express, Inc. ("Plaintiff"), and Branch Banking and Trust Company d/b/a or f/n/a BB&T Factors Corporation ("Defendant") in full and final settlement of the adversary proceeding bearing Adv. Pro. No. 09-0526 (the "Adversary Proceeding") pending in the United States Bankruptcy Court for the Middle District of Tennessee (the "Court"), as set out below:

**WHEREAS**, on December 6, 2007 (the "Petition Date"), a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") was filed by Sofa Express, Inc. (the "Debtor") with the Court, commencing bankruptcy case number 07-09024 (the "Bankruptcy Case"); and

**WHEREAS**, on December 13, 2007, the Official Committee of Unsecured Creditors was appointed by the Office of the United States Trustee; and

**WHEREAS**, by Order of the Court dated November 18, 2009, the Official Committee of Unsecured Creditors was authorized to, among other things, commence avoidance actions pursuant to §§ 547 and 550 of the Bankruptcy Code on behalf of the Debtor's estate; and

**WHEREAS**, Plaintiff has asserted that, on or within ninety (90) days prior to the Petition Date, the Debtor made one or more payments to or on behalf of the Defendant totaling not less than \$357,980.72 (the "Payments"); and

**WHEREAS**, Plaintiff initiated the instant Adversary Proceeding against the Defendant seeking the avoidance and return of the Payments pursuant to §§ 547 and 550 of the Bankruptcy Code (the "Preference Claim"); and

**WHEREAS**, the Defendant disputes the allegations and claims contained in the complaint which commenced the Adversary Proceeding; and

**WHEREAS**, Plaintiff and Defendant have exchanged information and documents relevant to the Preference Claim and the asserted defenses thereto; and

**WHEREAS**, in order to avoid the cost of further litigation and the attendant risks and costs thereto, Plaintiff and Defendant have determined to resolve the dispute between them upon the terms and provisions of this Agreement; and

**WHEREAS**, Plaintiff and Defendant have carefully considered the terms of this Agreement, after having had the opportunity to consult with their respective attorneys, and are satisfied that it is fair and reasonable;

**NOW, THEREFORE**, Plaintiff and Defendant agree as follows:

1. This Agreement shall be subject to approval by the Court.
2. In full and final settlement of the Preference Claim, Defendant agrees to pay Plaintiff the sum of \$43,000.00 (the "Settlement Amount") by wire transfer, check or money order made payable to "Platzer, Swergold, as Attorneys for the Committee." The Settlement Amount shall be paid by Defendant on or before November 12, 2010, and sent to "Platzer, Swergold, Karlin, Levine, Goldberg & Jaslow, LLP, 1065 Avenue of The Americas, 18<sup>th</sup> Floor, New York, NY 10018, Attn: Andrew S. Muller, Esq."
3. Defendant stipulates that it has not filed any proof of claim or otherwise asserted any claim against the Debtor in the Bankruptcy Case. Nevertheless, Defendant hereby stipulates and agrees to waive its right to any and all claims and administrative or post-confirmation expenses in connection with the Debtor's bankruptcy case, which are hereby expunged.

4. In addition, Defendant hereby stipulates and agrees to waive its right to file a claim pursuant to 11 U.S.C. § 502(h) with respect to the Settlement Amount.

5. Upon payment of the Settlement Amount, and execution and approval by the Court of this Agreement, Plaintiff will file the appropriate notice or stipulation dismissing this Adversary Proceeding with prejudice in accordance with Rule 7041 of the Fed. R. Bankr. P. and Rule 41(a)(1)(A) of the Fed. R. Civ. P.

6. Defendant agrees and acknowledges that Defendant has voluntarily offered, executed and delivered this Agreement on its own volition and upon the advice of counsel of its own selection and that the Agreement is valid and binding.

7. If Defendant fails to pay the Settlement Amount, when due, as required under the Agreement, Plaintiff reserves its right to pursue all rights and remedies available at law or equity and the settlement evidenced by this Agreement shall become null and void.

8. Neither the terms nor the statements contained in the Agreement or any correspondence related to the negotiation, drafting or approval of the Agreement shall be argued to be deemed to be an admission against either party's interest in any pending litigation by and between the parties.

9. Plaintiff and Defendant acknowledge that this Agreement is a compromise of a disputed claim, and that neither admits, and each expressly denies any liability on its part.

10. Upon Plaintiff's receipt and successful deposit of the Settlement Amount, the parties hereby mutually release each other from any and all claims, counterclaims, demands, actions, causes of action, rights, obligations, damages, losses, injuries, costs, expenses, attorneys' fees, suits, controversies, and liabilities of any kind or nature whatsoever in law, equity or otherwise, whether known or unknown, suspected or unsuspected, fixed, contingent, accrued,

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inchoate or otherwise, which may now exist in any way related to the subject matter of the Adversary Proceeding.

11. The release by Plaintiff provided herein shall not be deemed a waiver of any of Plaintiff's or the Debtor's rights, if deemed necessary, to object to claims filed by the Defendant in the Debtor's bankruptcy case and Defendant shall be precluded from raising the release by Plaintiff provided herein in response to any claim objection filed by Plaintiff or the Debtor.

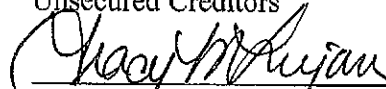
12. This Agreement contains the entire agreement between the parties, and may only be modified in writing signed by the parties or their duly appointed agents.

13. Each party acknowledges that they have read all of the terms of this Agreement and enters into this Agreement voluntarily and without duress.

14. This Agreement shall be binding upon the parties' heirs, successors and assigns, and shall inure to the benefit of the parties' heirs, successors and assigns. All references herein to the Defendant shall be deemed to include all parents, affiliates, subsidiaries, successors and assigns and all references herein to Plaintiff shall be deemed to include its successors and assigns.

15. This Agreement may be executed in counterpart originals.

**HARWELL HOWARD HYNE GABBERT  
& MANNER, P.C.**  
Counsel to Plaintiff, the Official Committee of  
Unsecured Creditors



By: Tracy M. Lujan, Esq.  
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Nashville, TN 37238

**BRANCH BANKING AND TRUST  
COMPANY**  
Defendant

By: 

Rick Benner  
Senior Vice President