

SETTLEMENT AGREEMENT

This Settlement Agreement (this "Agreement") is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Small Business Administration (collectively the "United States"), and Garsh Lending, LLC ("Garsh Lending") (hereafter collectively referred to as the "Parties," and each individually, a "Party"), through their authorized representatives.

RECITALS

A. Garsh Lending is a limited liability company organized and existing under the laws of the State of Florida.

B. On or about July 30, 2007, Garsh Lending made a loan to First American Wealth Management, LLC ("Borrower") that was evidenced by an Adjustable Rate Balloon Promissory Note made by Borrower to Garsh Lending (as modified, the "Note").

C. In connection with the Note, Borrower executed in favor of and delivered to Garsh Lending: (i) a Mortgage and Security Agreement, dated July 30, 2007, recorded in Official Records Book 25825, Pg. 1972 of the Public Records of Miami-Dade County, Florida (as modified from time to time, "Mortgage"), which encumbers certain real property together with improvements located thereon situated in Miami-Dade County, Florida ("Mortgaged Property") legally described on Exhibit A attached hereto, and (ii) an Assignment of Rents, dated July 30, 2007, recorded on August 1, 2007 in Official Records Book 25825, Pages 1999 - 2005, of the Public Records of Miami-Dade County, Florida ("Assignment of Rents"), which grants a security interest in any rents derived from the Mortgaged Property ("Rents"). The Note, Mortgage, Assignment of Rents, and all documents executed in connection therewith are

hereinafter collectively referred to as the “Loan Documents.” The Mortgaged Property and the Rents are collectively referred to as the “Collateral.”

D. Borrower defaulted under its obligations under the Note and other Loan Documents.

E. In order to enforce certain rights and remedies under the Note and related Loan Documents, Garsh Lending initiated a pending action styled *Garsh Lending, LLC v. First American Wealth Management, LLC, et al.*, No. 08-23615CA01 (the “State Court Litigation”) before the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida on or about April 29, 2008.

F. The United States claims an interest in the Mortgaged Property pursuant to an Assignment of Mortgage and Conditional Assignment of Lease recorded in Official Records Book 26292, Pg. 4577 of the Public Records of Miami-Dade County, Florida (the “SBA Mortgage”).

G. The United States is a defendant in the State Court Litigation.

H. The United States filed a Special Appearance, Answer, and Counterclaim in the State Court Litigation against Garsh Lending on or about July 15, 2009.

I. On November 3, 2010, the Bankruptcy Court entered the *Agreed Interim Order (I) Authorizing the Use of Cash Collateral Under 11 U.S.C. § 363, (II) Granting Adequate Protection Under 11 U.S.C. § 361, 362, 363, and 507 and (III) Scheduling a Final Hearing Under Fed. R. Bankr. P. 4001(B)* (ECF No. 33 in Bankruptcy Case) (“Interim Cash Collateral Order”).

J. In the Interim Cash Collateral Order, Borrower stipulated to the extent, validity, priority, and amount of the Note, Mortgage, and Assignment of Rents (“Borrower Stipulations”).

K. The Interim Cash Collateral Order set a bar date for creditors and parties in interest to file any complaint objecting to the extent, validity, priority, amount, or other aspect of the liens and security interest encumbering Borrower’s assets held by Garsh Lending (“Challenge Period”).

L. On November 30, 2010, the Court entered the *Agreed Final Order (I) Authorizing the Use of Cash Collateral Under 11 U.S.C. § 363 and (II) Granting Adequate Protection Under 11 U.S.C. §§ 363, 362, 363 and 507* (ECF No. 37) (“Final Cash Collateral Order”).

M. The Final Cash Collateral Order indicated that the Challenge Period expired on January 1, 2011.

N. The Interim Cash Collateral Order and the Final Cash Collateral Order were properly served on the United States.

O. Under the Interim Cash Collateral Order, the Borrower Stipulations are binding on all creditors and parties in interest that did not file a complaint against Garsh Lending prior to the expiration of the Challenge Period.

P. On December 21, 2010, the United States filed an adversary proceeding styled *United States of America, on behalf of its Agency, the Small Business Administration v. Garsh Lending, LLC*, Adv. Pro. No. 10-03809-AJC asserting claims for (i) money damages for breach of contract and (ii) equitable subordination of the Mortgage and Assignment of Rents to the SBA Mortgage (“Adversary Proceeding”).

Q. The allegations set forth by the United States in the claims or counterclaims in the State Court Litigation and the Adversary Proceeding are hereinafter referred to as the “Covered Conduct.”

R. This Agreement is neither an admission of liability by any Party nor a concession by any Party that its claims are not well founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Incorporation of Recitals. The above recitals are true and correct. They are terms of this Agreement that are binding on the Parties and incorporated herein in their entirety.

2. Settlement Amount. No later than one business day after the Effective Date of this Agreement, Garsh Lending shall pay to the United States three hundred thousand dollars (\$300,000.00) (“Settlement Amount”) in immediately available funds by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice. In the event that the payment tendered by Garsh cannot be negotiated or is returned by Garsh’s bank for insufficient funds, the parties agree that this Agreement is canceled and all documents executed pursuant to this Agreement are void.

3. Dismissal of State Court Litigation. In consideration of the obligations of Garsh Lending in this Agreement and within five business days after confirmation of receipt of the Settlement Amount, the United States agrees to dismiss with prejudice the counterclaim and

affirmative defenses asserted against Garsh Lending in connection with the State Court Litigation (in the form of Exhibit B attached hereto).

4. Release of Lien. In consideration of the obligations of Garsh Lending in this Agreement and within five business days after confirmation of receipt of the Settlement Amount, the United States agrees to execute and deliver to Garsh Lending a release of lien and its statutory right of redemption (in the form of Exhibit C attached hereto).

5. Dismissal of Adversary Proceeding. In consideration of the obligations of Garsh Lending in this Agreement, the United States agrees to dismiss with prejudice the Adversary Proceeding filed against Garsh Lending in the Bankruptcy Court. On or before five business days after confirmation of receipt of the Settlement Amount, the United States and Garsh Lending shall jointly request that the Bankruptcy Court enter an agreed final judgment in the Adversary Proceeding (in the form of Exhibit D attached hereto).

6. Adequate Protection Payments. The United States consents to the release to Garsh Lending of any and all funds paid by Borrower pursuant to the Final Cash Collateral Order, and acknowledges and agrees that any and all future payments made by Borrower pursuant to such order shall be delivered directly to Garsh Lending or any other party designated by Garsh Lending and such payments become property of Garsh Lending not subject to any claim by the United States.

7. Garsh Lending's Representations and Warranties. Garsh Lending hereby represents and warrants to the United States that:

a. Garsh Lending is a duly organized and validly existing limited liability company under the laws of the State of Florida;

b. Garsh Lending has full requisite power and authority to execute, deliver, and perform each of its obligations under this Agreement;

c. This Agreement has been duly and validly authorized, executed, and delivered by Garsh Lending, and constitutes a valid and legally binding agreement of Garsh Lending, enforceable against Garsh Lending in accordance with its terms; and

d. Garsh Lending is not an Affiliate of Mercantile Commercial Capital, LLC, First American Wealth Management, LLC, The Real Estate Center of America, LLC, Florida Asset Management Holding, Inc., Alejandro Alvarez, Pablo Alvarez, and/or Jose Velesco. For purposes of this Agreement, the term "Affiliate" means, with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with, such person; provided that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise and provided, further, that an Affiliate of any person shall also include (i) any person that directly or indirectly owns more than ten percent (10%) of any class of capital stock or other equity interest of such person; (ii) any officer, director, trustee or beneficiary of such person; (iii) any spouse, parent, sibling, or descendant of any person described in clauses (i) or (ii) above; and (iv) any trust for the benefit of any person described in clauses (i) through (iii) above or for any spouse, issue, or lineal descendant of any person described in clauses (i) through (iii) above.

8. Release by the United States. Subject to the exceptions in Paragraph 9 (concerning excluded claims) and Paragraph 10 below, and conditioned upon Garsh Lending's full payment of the Settlement Amount, the United States releases Garsh Lending, its members, agents, representatives, and employees from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

9. Excluded Claims. Notwithstanding the release given in Paragraph 8 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct, including any defaults under a Third Party Lender Agreement entered into in connection with the United States Small Business Administration's 504 Loan Program (13 C.F.R. §§ 120.800-120.991);
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due;

h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct;

i. Any liability of individuals (including current or former directors, officers, employees, agents, or shareholders of Garsh Lending) who receive written notification that they are the target of a criminal investigation (as defined in the United States Attorneys' Manual), are indicted or charged, or who enter into a plea agreement, related to the Covered Conduct.

10. Other Entities Not Released. Nothing in this Agreement or the release contained in Paragraph 8 shall be construed to release Mercantile Commercial Capital, LLC, First American Wealth Management, LLC, The Real Estate Center of America, LLC, Florida Asset Management Holding, Inc., Alejandro Alvarez, Pablo Alvarez, and/or Jose Velesco.

11. Certain Defenses Waived. Garsh Lending waives and shall not assert any defenses it may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

12. Release by Garsh Lending. Garsh Lending fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including

attorney's fees, costs, and expenses of every kind and however denominated) that Garsh Lending has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

13. a. Unallowable Costs Defined. All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Garsh Lending, and its present or former officers, directors, employees, shareholders, and agents in connection with:

(1) The matters covered by this Agreement;

(2) The United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;

(3) Garsh Lending's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);

(4) The negotiation and performance of this Agreement;

(5) The payment Garsh Lending makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs. Unallowable Costs will be separately determined and accounted for by Garsh Lending, and Garsh Lending shall not

charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment.

Within ninety (90) days of the Effective Date of this Agreement, Garsh Lending shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Garsh Lending or any of its subsidiaries or affiliates from the United States. Garsh Lending agrees that the United States, at a minimum, shall be entitled to recoup from Garsh Lending any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Garsh Lending's books and records and to disagree with any calculations submitted by Garsh Lending or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Garsh Lending, or the effect of any such Unallowable Costs on the amount of such payments.

14. This Agreement is intended to be for the benefit of the Parties only.

15. Fees and Costs. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

16. Advice of Counsel. The Parties to this Agreement have had the benefit of counsel of their own choice and have been afforded an opportunity to review this Agreement with chosen counsel. The Parties, after conferring with counsel, further acknowledge and represent that they

have carefully read this Agreement, understand it, and have executed it voluntarily and on their own best judgment, without fraud, duress, or undue influence.

17. Governing Law. This Agreement is governed by the laws of the United States.

18. Choice of Forum. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Florida.

19. Neutral Construction. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

20. Entire Agreement. This Agreement constitutes the complete agreement between the Parties.

21. Amendment. This Agreement may not be amended except by written consent of the Parties.

22. Survival. All recitals, representations, warranties, understandings, covenants, pledges, promises, and agreements contained herein shall survive the execution and delivery of this Agreement.

23. Waiver. No waiver by any Party of any breach by any other Party of any term, condition, or obligation set forth in this Agreement shall be deemed a waiver of that provision or any other provision of this Agreement, or a waiver of the same or similar breach thereafter, unless such waiver is first reduced to writing and signed by authorized representatives of each of the Parties.

24. Headings. The headings in this Agreement are for the convenience of the reader only and do not form a substantive part of this Agreement or in any way affect the meaning or interpretation hereof.

25. Notices. All notices required or permitted hereunder shall be in writing and shall be sent via facsimile transmission or delivered by hand and addressed as follows:

If to Garsh Lending:

Garsh Lending LLC
8370 Ponce de Leon Road
Miami, FL 33143
Attention: Alejandro J. Garcia
Facsimile: 786-594-0113

If to the United States:

Anna M. Pugsley
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice
601 D St. NW
Washington, DC 20004
Facsimile: 202-307-3852

Anthony G. Parham
Special Assistant United States Attorney
409 3rd Street, SW, 7th Floor
Washington, DC 20416
Facsimile: 202-292-3841

A properly addressed notice shall be deemed received on the business day received, provided that notices by facsimile transmission received after 5:00 p.m. (Eastern Standard Time) will be deemed received on the next business day. Furthermore, any and all documents to be filed by Garsh Lending in connection with any of the Subject Proceedings may be delivered to the United States as set forth above, and the United States acknowledges and agrees that the delivery of any

filings or documents in accordance with the provisions of this paragraph shall constitute valid and sufficient service of process.

26. Authorization. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

27. Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

28. Binding Instrument. This Agreement shall bind and inure to the benefit of the Parties and their respective parent entities, predecessors, subsidiaries, affiliates, current or former agents, officers, principals, managers, members, directors, executives, employees, attorneys, partners, accountants, representatives, successors, and assigns, and any entities controlled, directly or indirectly, legally or beneficially, by them.

29. Disclosure of Agreement. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

30. Effective Date of Agreement. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement").

31. Facsimile Signatures. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement. A Party that provides a facsimile signature shall deliver the original signature within five business days to the representative designated to receive notice in Paragraph 25 of this Agreement.

[SIGNATURE PAGES FOLLOW]

THE UNITED STATES OF AMERICA

DATED: 5/16/2011

BY: Anna M. Pugsley
Anna M. Pugsley
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice
601 D St. NW
Washington, DC 20004

WIFREDO A. FERRER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

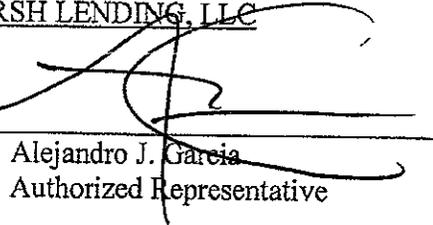
DATED:

BY: Anthony Parham
Digitally signed by Anthony Parham
DN: cn=Anthony Parham, o=SBA, ou=OGC,
email=Anthony.Parham@SBA.gov, c=US
Date: 2011.05.16 16:47:27 -0400
Anthony G. Parham
Special Assistant United States Attorney
Southern District of Florida
409 3rd St. SW, 7th Floor
Washington, DC 20416

GARSH LENDING, LLC

DATED:

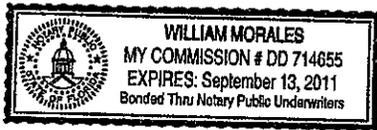
BY:


Alejandro J. Garcia
Authorized Representative

STATE OF Florida)

COUNTY OF Miami Dade)

The foregoing instrument was acknowledged before me this 17 day of ~~April~~^{May}, 2011, by Alejandro J. Garcia, who is personally known to me or who has produced _____ as identification and did/did not take an oath.



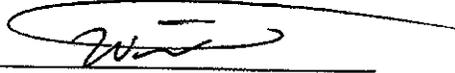

Notary Public

Exhibit A

Legal Description of Mortgage Property

Unit Nos. CU-101A, CU-101B, CU-101C, CU-101D and CU-101E of THE PROFESSIONAL ARTS CENTER AT KENDALL VILLAGE, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records Book 25311, Page 3145, of the Public Records of Miami-Dade County, Florida, together with an undivided interest or share in the common elements appurtenant thereto.

Exhibit B

Form of Joint Motion to Dismiss State Court Counterclaim and Proceedings against the United States

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA**

GARSH LENDING, LLC,

Plaintiff,

Case No.: 08-23615-CA-01

vs.

**FIRST AMERICAN WEALTH
MANAGEMENT, LLC, ET AL**

Defendants

**JOINT MOTION TO DISMISS THE U.S. SMALL BUSINESS ADMINISTRATION
AS A PARTY AND SBA'S COUNTERCLAIMS**

Defendant, UNITED STATES OF AMERICA, on behalf of its Agency, the Small Business Administration ("SBA") and Plaintiff Garsh Lending, LLC ("Garsh"), through their undersigned counsel, and pursuant to and subject to the terms of the Settlement Agreement between the SBA and Garsh, jointly move for entry of the attached Order dismissing with prejudice the United States of America and the SBA as a party and dismissing with prejudice the SBA's counterclaims against Garsh, with the United States of America, SBA and Garsh to each bear its own fees and expenses. A proposed Order is attached.

CARLOS A. GIL, P.A.

Henry M. Gamboa, Esq.
Florida Bar No.: 0026014
3910 W. Flagler St.
Telephone: (305) 443-2525
Fax: (305) 443-2728

Attorney for Plaintiff, Garsh Lending, LLC

**WIFREDO A. FERRER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA**

Anthony G. Parham
Special Assistant U.S. Attorney
U.S. Small Business Administration
409 3rd Street, SW, Suite 7200
Washington, DC 20416
Telephone: (202) 205-6647
Fax: (202) 481-2992

Attorney for the Defendant, United States and
its Agency, the Small Business Administration

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the U.S. Postal Service, first class postage paid, this ____ day of _____, 2011, to all parties and counsel of record:

First American Wealth Management, LLC
c/o Alejandro Alvarez
11733 SW 107 Terrace
Miami, Florida 33186

Florida First Capital Finance Corporation, Inc.
Todd G. Kocourek, Registered Agent
1351 N. Gadsden St.
Tallahassee, FL 32303

Anthony G. Parham

PROPOSED ORDER

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

GARSH LENDING, LLC,

Plaintiff,

Case No.: 08-23615-CA-01

vs.

FIRST AMERICAN WEALTH
MANAGEMENT, LLC, ET AL

Defendants

AGREED ORDER

THIS CAUSE having come before the Court upon the JOINT MOTION TO DISMISS THE U.S. SMALL BUSINESS ADMINISTRATION AS A PARTY AND SBA'S COUNTERCLAIMS ("Joint Motion") filed by Defendant, UNITED STATES OF AMERICA, on behalf of its Agency, Small Business Administration ("SBA") and Plaintiff Garsh Lending, LLC ("Garsh"), the Court having reviewed the Joint Motion and being otherwise fully advised in the record, it is hereby

ORDERED AND ADJUDGED as follows:

The Joint Motion is GRANTED. Subject to the terms of the Settlement Agreement between Garsh and the United States of America, the United States of America and its Agency, the Small Business Administration ("SBA") are hereby dismissed with prejudice as a party in this case and the SBA's counterclaims against Garsh are dismissed with PREJUDICE. The United States of America, the SBA and Garsh shall each bear its/their own fees and expenses.

DONE AND ORDERED this ____ day of _____, 2011.

CIRCUIT COURT JUDGE

Conformed copies to All parties on Attached Service List

SERVICE LIST

<p>Henry M. Gamboa, Esq. Florida Bar No.: 0026014 3910 W. Flagler St. Attorney for Plaintiff, Garsh Lending, LLC</p>	<p>Anthony G. Parham Special Assistant U.S. Attorney for the Southern District of Florida U.S. Small Business Administration 409 3rd Street, SW, Suite 7200 Washington, DC 20416 Attorney for the Defendant, United States and its Agency, the Small Business Administration</p>
<p>First American Wealth Management, LLC c/o Alejandro Alvarez 11733 SW 107 Terrace Miami, Florida 33186</p>	<p>Florida First Capital Finance Corporation, Inc. Todd G. Kocourek, Registered Agent 1351 N. Gadsden St. Tallahassee, FL 32303</p>

Exhibit C

Release of Lien and Right of Redemption

This Instrument Was Prepared By,
Record and Return To:

Alejandro M. Arrieta, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler St., Suite 2200
Miami, Florida 33130

**RELEASE OF MORTGAGE, RELEASE OF CONDITIONAL ASSIGNMENT OF LEASE
BY LESSOR, RELEASE OF ASSIGNMENT OF LESSEE'S INTEREST IN LEASE AND
RELEASE OF RIGHT OF REDEMPTION**

Pursuant to that certain Assignment of Mortgage and Conditional Assignment of Lease by Lessor and Assignment of Lessee's Interest in Lease, the UNITED STATES SMALL BUSINESS ADMINISTRATION owns and holds that certain (i) Mortgage and Security Agreement, dated July 30, 2007, recorded in Official Records Book 26158, Page 3570, of the public records of Miami-Dade County, Florida (the "SBA Mortgage"), and the underlying promissory note, (ii) Conditional Assignment of Lease by Lessor, dated July 30, 2007, recorded in Official Records Book 26158, Page 3587, of the public records of Miami-Dade County, Florida (the "Lessor's Assignment") and (iii) Assignment of Lessee's Interest in Lease, dated July 30, 2007, recorded in Official Records Book 26158, Page 3592, of the public records of Miami-Dade County, Florida (the "Lessee's Assignment").

The UNITED STATES SMALL BUSINESS ADMINISTRATION, an agency of the United States, for valuable consideration received, the receipt and sufficiency of which is hereby acknowledged;

HEREBY releases, acquits and forever discharges the SBA Mortgage, the Lessor's Assignment and the Lessee's Assignment and right of redemption, if any, in connection therewith and all claims and demands in and to that certain real property located at and legally described as follows:

Unit Nos. CU-101A, CU-101B, CU-101C, CU-101D and CU-101E of THE PROFESSIONAL ARTS CENTER AT KENDALL VILLAGE, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records Book 25311, Page 3145, of the public records of Miami-Dade County, Florida, together with an undivided interest or share in the common elements appurtenant thereto.

HEREBY confirms that it has not assigned any rights to the SBA Mortgage and underlying promissory note, the Lessor's Assignment or the Lessee's Assignment.

[Signature Page Follows]

IN WITNESS WHEREOF, we have hereunto set our hand and seal this __ day of _____, 2011.

WITNESSED BY:

UNITED STATES SMALL BUSINESS
ADMINISTRATION, an agency of the
UNITED STATES OF AMERICA

Witness Signature

By: _____

BRUCE DUSTON
Title: Loan Officer,
UNITED STATES SMALL BUSINESS
ADMINISTRATION

Printed Name of Witness

Witness Signature

Printed Name of Witness

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

The foregoing instrument was sworn to and acknowledged before me this __ day of _____, 2011; by Bruce Duston as loan officer of the United States Small Business Administration, an agency of the United States, on behalf of said agency. He is personally known to me or produced _____ as identification.

NOTARY SEAL

NOTARY PUBLIC-STATE OF ARKANSAS

By: _____

Printed Name of Notary Public

My Commission Expires on:

Exhibit D

Form of United States Dismissal of Adversary Complaint

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

Case No.: 10-31883-AJC

FIRST AMERICAN WEALTH
MANAGEMENT, LLC

Chapter 11

Debtor.

US SMALL BUSINESS ADMINISTRATION,

Adv. Proc. No. 10-03809-AJC

Plaintiff,

v.

GARSH LENDING, LLC

Defendant.

**STIPULATION AND EX PARTE MOTION
FOR ENTRY OF AGREED FINAL JUDGMENT**

Plaintiff, the United States of America, on behalf of its Agency, the Small Business Administration ("**SBA**"), and Defendant, Garsh Lending, LLC ("**Garsh**"): (A) stipulate to certain terms and conditions of their settlement of this adversary proceeding set forth below and (B) move *ex parte* for the Court's entry of an agreed order and final judgment substantially in the forms attached as Composite Exhibit A. In support of this Motion, the SBA and Garsh state and stipulate as follows:

BACKGROUND

1. On December 21, 2010, the SBA filed a complaint (ECF No. 1 in this Adversary Proceeding) ("**Complaint**") against Garsh seeking: (i) damages for breach of contract and (ii)

equitable subordination of Garsh's first mortgage encumbering real property owned by the debtor and debtor-in-possession First American Wealth Management, LLC ("Debtor").

2. Debtor is not a party to this Adversary Proceeding and, thus, compliance with Fed. R. Bankr. P. 9019 and Local Rule 9019-1 is unnecessary.

3. As previously represented to the Court, this Adversary Proceeding is critical to Debtor's bankruptcy case because it deals with the priority of liens encumbering Debtor's real property, which is Debtor's primary asset. This stipulation completely resolves this Adversary Proceeding. Therefore, upon entry of the agreed order and agreed final judgment based upon this stipulation, Debtor's bankruptcy case can proceed to disposition.

STIPULATION

4. The SBA and Garsh stipulate ("Stipulation"):

A. To Dismissal *with prejudice* of the claim for money damages brought by the SBA against Garsh in this Adversary Proceeding.

B. That Garsh loaned Debtor the principal sum of \$1,100,000.00 ("Garsh Loan") pursuant to a Promissory Note executed and delivered by Debtor to Garsh ("Garsh Note"). The Garsh Note is secured by: (i) a first Mortgage ("Garsh Mortgage") encumbering certain real property and improvements located in Miami-Dade County, Florida at 8501 SW 124th Avenue, Suite 101A-E, Miami, Florida, 33183 and legally described on Exhibit B ("Property") and (ii) an Assignment of Rents ("Garsh Assignment of Rents") granting Garsh a first priority security interest in the rents derived from the Property ("Rents"). The Property and Rents are collectively referred to as the ("Garsh Collateral"). The Garsh Mortgage, dated July 30, 2007, executed and delivered by Debtor to Garsh, was recorded on August 1, 2007 in Official Records Book 25825, Pages 1972 - 1998, of the Public Records of Miami-Dade County, Florida. The Assignment of Rents, dated July 30, 2007, executed and delivered by Debtor to Garsh, was recorded on August 1, 2007 in Official Records Book 25825, Pages 1999 - 2005, of the Public Records of Miami-Dade County, Florida. The Garsh Note, the Garsh Mortgage, the Garsh Assignment of Rents and other related loan documents memorializing the Garsh Loan are collectively referred to as the "Garsh Loan Documents" and grant to Garsh valid, fully perfected, first priority liens on and security interests in the Garsh Collateral "Garsh Pre-petition Liens and Security Interests".

C. That on July 30, 2007, Debtor executed and delivered to Florida First Capital Finance Corporation, Inc. ("FFCFC") a Mortgage and Security Agreement ("FFCFC Mortgage"). The FFCFC Mortgage was recorded on January 14, 2008 in Official Records Book 26158, Pages 3570 - 3586, of the Public Records of Miami-Dade County, Florida. On July 30, 2007, Debtor executed and delivered to FFCFC a Conditional Assignment of Lease by Lessor ("FFCFC Assignment of Rents"). The FFCFC Assignment of Rents was recorded on January 14, 2008 in Official Records Book 26158, Pages 3587 - 3591, of the Public Records of Miami-Dade County, Florida. On January 11, 2008, FFCFC executed and delivered that certain Assignment of Mortgage and Conditional Assignment of Lease by Lessor and Assignment of Lessee's Interest in Lease to the US Government ("SBA Assignment"), which assigned the FFCFC Mortgage and FFCFC Assignment of Rents to the SBA ("SBA Pre-petition Liens and Security Interests"). The SBA Assignment was recorded on March 27, 2008 in Official Records Book 26292, Pages 4577 - 4579, of the Public Records of Miami-Dade County, Florida.

D. That the Garsh Pre-petition Liens and Security Interests are superior in dignity to any right, title, interest or claim of the SBA, including, without limitation, any under the SBA Pre-petition Liens and Security Interests and all persons, corporations, or other entities claiming by, through, or under the SBA or any of them with respect to the Garsh Collateral, and the Property may be sold free and clear of any right, title, interest or claim of the SBA, including, without limitation, any under the SBA Pre-petition Liens and Security Interests.

E. That Garsh is entitled to instruct its counsel to release from escrow the Adequate Protection Payments made by Debtor to Garsh held in escrow pursuant to the agreement between the SBA and Garsh.

F. That Garsh is not required to escrow any Adequate Protection Payments made by Debtor to Garsh from the date of this Stipulation forward.

G. That the SBA and Garsh shall request entry of an order and final judgment based upon this Stipulation in this Adversary Proceeding.

H. That the SBA and Garsh shall each bear their own attorneys' fees and costs in connection with the Adversary Proceeding.

ACKNOWLEDGEMENT AND AGREEMENT BY THE SBA AND GARSH

5. By signing this Motion, Anthony Parham, Esq. and Linda Cook, Esq., Special Assistant United States Attorneys, as attorneys for, with authority granted by and on behalf of the SBA, acknowledges and agrees to the terms of the Stipulation.

6. By signing this Motion, Kristopher E. Pearson, Esq., as attorney for, with authority granted by and on behalf of the Garsh, acknowledges and agrees to the terms of the Stipulation.

WHEREFORE, the SBA and Garsh respectfully request that the Court enter an order and final judgment, substantially in the forms attached as Composite Exhibit A and grant such further relief as the Court deems just and proper.

Dated: May __, 2011.

/s/ draft

KRISTOPHER E. PEARSON
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Counsel for Garsh Lending, LLC

/s/ draft (with permission)

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/s/ draft (with permission)

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Counsel for United States of America, on
behalf of its Agency, the Small Business
Administration

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May __, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record and parties-in-interest via transmission of Notices of Electronic Filing generated by CM/ECF to those counsel or parties who are registered to receive Notices of Electronic Filing in this case, or by U.S. Mail, postage prepaid as indicated on the Service List attached as Exhibit C.

/s/ Draft
KRISTOPHER E. PEARSON

**COMPOSITE
EXHIBIT A**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

Case No.: 10-31883-AJC

FIRST AMERICAN WEALTH
MANAGEMENT, LLC

Chapter 11

Debtor.

US SMALL BUSINESS ADMINISTRATION,

Adv. Proc. No. 10-03809-AJC

Plaintiff,

v.

GARSH LENDING, LLC

Defendant.

AGREED ORDER GRANTING *EX PARTE*
MOTION FOR ENTRY OF AGREED FINAL JUDGMENT

THIS CAUSE came before the Court without hearing upon the *Stipulation and Ex Parte Motion for Entry of Agreed Final Judgment* (ECF No. _) (“**Motion**”) filed by Plaintiff, the United States of America, on behalf of its Agency, the Small Business Administration (“**SBA**”), and Defendant, Garsh Lending, LLC (“**Garsh**”).

In the Motion, the SBA and Garsh made certain stipulations that completely resolve this Adversary Proceeding and requested entry of an agreed final judgment. Based upon the Court's review of the Motion and the record in this Adversary Proceeding, and having noted the Debtor, First American Wealth Management, LLC ("Debtor"), is not a party to this Adversary Proceeding making compliance with Fed. R. Bankr. P. 9019 and Local Rule 9019-1 unnecessary, the Court makes the following findings of fact and conclusions of law:

A. On December 21, 2010, the SBA filed a complaint (ECF No. 1 in this Adversary Proceeding) ("Complaint") against Garsh seeking: (i) money damages for breach of contract and (ii) equitable subordination of Garsh's first mortgage encumbering real property owned by Debtor.

B. Garsh was properly served with the Summons, Complaint and Pre-Trial Order.

C. This Court has jurisdiction over the subject matter of and the parties to this Adversary Proceeding. Further, this is a core proceeding, and this Court may enter final orders and judgments adjudicating the issues and claims brought or that could have been brought in this Adversary Proceeding.

D. The Stipulation completely resolves this Adversary Proceeding.

Based upon the foregoing findings of fact and conclusions of law,

IT IS ORDERED THAT –

1. The Motion is **GRANTED**.
2. The money damages claim brought by the SBA against Garsh is dismissed *with prejudice*.
3. The Garsh Pre-petition Liens and Security Interests (defined in the Motion) are superior in dignity to any right, title, interest or claim of the SBA, including, without limitation,

those under the SBA Pre-petition Liens and Security Interests (defined in the Motion) and all persons, corporations, or other entities claiming by, through, or under the SBA or any of them with respect to the Garsh Collateral (defined in the Motion), and the Property (defined in the Motion) may be sold free and clear of any right, title, interest or claim of the SBA, including, without limitation, those under the SBA Pre-petition Liens and Security Interests (defined in the Motion).

4. Garsh may instruct its counsel to release from escrow the Adequate Protection Payments made by Debtor to Garsh held in escrow pursuant to the agreement between the SBA and Garsh.

5. Garsh is not required to escrow any Adequate Protection Payments made by Debtor to Garsh from the date of the Motion forward.

6. The SBA and Garsh shall each bear their own attorneys' fees and costs in connection with this Adversary Proceeding.

7. In accordance with Fed. R. Bankr. P. 9021, the Court is contemporaneously entering a separate judgment.

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Submitted by:

Kristopher E. Pearson, Esq.

Florida Bar No. 0016874
STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.
Counsel for Garsh Lending, LLC
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150 West Flagler Street
Miami, Florida 33130
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Facsimile: (305) 789-2624
Email: kpearson@stearnsweaver.com

(Attorney Pearson is directed to serve copies of this Order
on all other interested parties and to file a certificate of service.)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

Case No.: 10-31883-AJC

FIRST AMERICAN WEALTH
MANAGEMENT, LLC

Chapter 11

Debtor.

US SMALL BUSINESS ADMINISTRATION,

Adv. Proc. No. 10-03809-AJC

Plaintiff,

v.

GARSH LENDING, LLC

Defendant.

AGREED FINAL JUDGMENT

Plaintiff, the United States of America, on behalf of its Agency, the Small Business Administration ("**SBA**"), and Defendant, Garsh Lending, LLC ("**Garsh**") filed the *Stipulation and Ex Parte Motion for Entry of Agreed Final Judgment* (ECF No.) ("**Motion**"). This Court entered the *Agreed Order Granting Ex Parte Motion for Entry of Agreed Final Judgment* (ECF

No.) ("**Agreed Order**"). Therefore, on the Motion and Agreed Order, agreed final judgment is entered as follows:

The Mortgage, dated July 30, 2007, executed and delivered by Debtor to Garsh, recorded on August 1, 2007 in Official Records Book 25825, Pages 1972 - 1998, of the Public Records of Miami-Dade County, Florida and the Assignment of Rents, dated July 30, 2007, executed and delivered by Debtor to Garsh, recorded on August 1, 2007 in Official Records Book 25825, Pages 1999 - 2005, of the Public Records of Miami-Dade County, Florida owned and held by Garsh Lending, LLC, whose address is 8370 Ponce de Leon Road, Miami, FL 33143, Attention: Alejandro J. Garcia, are superior in dignity to any right, title, interest or claim of the SBA, whose address is, 2120 Riverfront Drive, Suite 100, Little Rock AR 72202, Attention: Bruce Duston, Loan Officer, including, without limitation, any under the Mortgage recorded on January 14, 2008 in Official Records Book 26158, Pages 3570 - 3586, of the Public Records of Miami-Dade County, Florida and the Assignment of Rents was recorded on January 14, 2008 in Official Records Book 26158, Pages 3587 - 3591, of the Public Records of Miami-Dade County, Florida, and all persons, corporations, or other entities claiming by, through, or under the SBA or any of them with respect to the Property, which is legally described at Exhibit 1, and the rents derived from the Property, and may be sold free and clear of any right, title, interest or claim of the SBA.

###

Submitted by:

Kristopher E. Pearson, Esq.
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WEISSLER ALHADEFF & SITTERSON, P.A.
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(Attorney Pearson is directed to serve copies of this Judgment on all other interested parties and to file a certificate of service.)

EXHIBIT 1

Legal Description of Property

Unit Nos. CU-101A, CU-101B, CU-101C, CU-101D and CU-101E of THE PROFESSIONAL ARTS CENTER AT KENDALL VILLAGE, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records Book 25311, Page 3145, of the Public Records of Miami-Dade County, Florida, together with an undivided interest or share in the common elements appurtenant thereto.

EXHIBIT B

Legal Description of the Property

Unit Nos. CU-101A, CU-101B, CU-101C, CU-101D and CU-101E of THE PROFESSIONAL ARTS CENTER AT KENDALL VILLAGE, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records Book 25311, Page 3145, of the Public Records of Miami-Dade County, Florida, together with an undivided interest or share in the common elements appurtenant thereto.