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UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re: Lead Case No.: 6:11-bk-06493-KSJ
CORDIA COMMUNICATIONS CORP. Chapter 7
Debtor. (Substantively Consolidated)¹

**ORDER AND MEMORANDUM OPINION GRANTING CHAPTER 7
TRUSTEE'S MOTION (i) TO APPROVE GLOBAL SETTLEMENT
AND COMPROMISE AND (ii) REQUEST FOR ENTRY OF A BAR ORDER**

THIS CASE came on for a final evidentiary hearing on October 30, 2013 on the Cordia Trustee's Motion (i) to Approve Global Settlement and Compromise and (ii) Request for Entry of a Bar Order ("Motion") (D.E. 1074);² and the Court having reviewed and considered the requested relief, the entire record in this case, the arguments of counsel, the un rebutted proffer of the testimony of the Chapter 7 Trustee who was available for cross-examination, and the exhibits entered into evidence, the Court thereupon issues the following FINDINGS OF FACT and CONCLUSIONS OF LAW:³

¹ This Court granted the Cordia Trustee's Verified Motion for Substantive Consolidation which caused consolidation of the following related debtor cases: Northstar Telecom, Inc. [Case No. 6:11-bk-06495-KSJ]; My Tel Co. Inc. [Case No. 6:11-bk-06496-KSJ]; Midwest Marketing Group, Inc. [Case No. 6:11-bk-06497-KSJ] with the lead case, Cordia Communications Corp. See Cordia Communications Corp. [D.E.1119].

² Similar Motions were filed in Northstar Telecom, Inc. [D.E. 169]; My Tel Co. Inc. [D.E. 155]; and Midwest Marketing Group, Inc. [D.E. 62]

³ The Findings of Fact and the Conclusions of Law set forth herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to the proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the Findings of Fact herein constitute conclusions of law, they are adopted as such. To the extent any of the Conclusions of Law herein constitute findings of fact, they are adopted as such. See *In re Am. Family Enters.*, 256 B.R. 377, 835 n.2 (Bankr. D.N.J. 2000); and *In re Antar*, 122 B.R. 788, 789 (Bankr. S.D.Fla. 1990).

I. FINDINGS OF FACT

1. Notice of the Motion, including the request for entry of a Bar Order⁴ and the hearing thereon, was sufficient and no other or further notice is or shall be required. In particular, the Motion was (i) provided to the All Creditor Matrix maintained by the Clerk of Court and mailing was certified by the Court approved third-party vendor documented by the Certificate of Service (D.E.1088); (ii) served on those parties who filed proofs of claim utilizing those additional service addresses contained in such filed claims; (iii) served on a supplemental matrix containing all additional parties who contacted the Chapter 7 Trustee; and (iv) published five (5) days in the nationwide edition of the The Wall Street Journal, which was sufficient notice to any other interested parties in a newspaper of general circulation in all known jurisdictions in which the Debtors previously conducted business, evidenced by a Verified Proof of Publication of Bar Date (D.E. 1106).⁵

2. Pursuant to Local Rule 2002-4, the Motion contained negative notice language informing all parties-in-interest and the Creditors of their rights to object to the relief requested in the Motion and further informing that the Court scheduled a final hearing to consider any timely filed objections on October 30, 2013 at 2:00 p.m.

3. The Settling Parties executed the Settlement in Counterparts (D.E. 1080).⁶

⁴ All capitalized terms are as defined in the Global Settlement and Mutual Release Agreement ("Settlement") attached to the Motion; or, if not defined therein, as set forth in 11 U.S.C. § 101; or, if not defined therein shall be given their plain meaning.

⁵ Verified Proof of Publication was filed in Northstar Telecom, Inc. [D.E.190]; My Tel Co. Inc. [D.E. 174]; and Midwest Marketing Group, Inc. [D.E. 73]

⁶ The executed counterparts were filed in Northstar Telecom, Inc. [D.E. 177]; My Tel Co. Inc. [D.E. 157]; and Midwest Marketing Group, Inc. [D.E.65]

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4. In December 2012 and in March 2013, the Cordia Trustee conducted his own cross-examination of each of the Adversary Insureds to investigate whether the Cordia Trustee had a good-faith basis to prosecute causes of action against any Bar Order Parties.

5. The Cordia Trustee selected, and then obtained, executed personal financial statements and the most recently filed tax returns from one or more of the Named Insureds and Byrum and Geils Entities and determined to his satisfaction that based on the confidential financial information and available public records that the relevant Bar Order Parties have either no or inconsequential assets which could be economically liquidated for the benefit of the creditors.

6. Illinois National voluntarily produced the D&O Policy to the Cordia Trustee.

7. The Cordia Trustee has (i) considered the defenses available to the Bar Order Parties if a consensual resolution could not be achieved; (ii) weighed the fact that the Cordia Trustee's bankruptcy estates would be in direct competition with the Cordia IP's Trustee's bankruptcy estates in pursuing relief against the Bar Order Parties; (iii) considered the fact that the Bar Order Parties are comprised, in part, of dissolved corporate entities that are no longer actively engaged in business and their principal has relocated to the United Kingdom; and (iv) analyzed whether to refile the Cordia Trustee Adversary Proceeding against certain Bar Order Parties before the expiration of the Amended Tolling Agreements on February 26, 2014.

8. The Adversary Insureds and Illinois National have informed the Cordia Trustee of their intention to vigorously defend the allegations set forth in the Cordia Trustee Adversary Proceeding should the Cordia Trustee re-file the lawsuit.

9. The Settlement is reasonable and in the best interests of creditors and the various bankruptcy estates. The Cordia Trustee has demonstrated the exercise of his prudent business judgment in connection therewith.

10. The Settlement provides the following concrete and substantial benefits:

- a. \$3,337,500.00 paid to the Cordia Trustee by Illinois National; and
- b. Resolution of the Cordia Trustee Adversary Proceeding.

11. All of the funds required to be paid in the preceding paragraph are in the trust accounts⁷ of the appropriate counsel.

12. Prior to the evidentiary hearing, the Cordia Trustee has either successfully secured, adjudicated, or resolved all of the pending objections to the priority administrative claims. The early initiation of the administrative claims objection process resulted in the net reduction of \$6,951,003.75⁸ in allowed claims. Exhibit "1" to the Motion presented all creditors and interested parties with different factual scenarios that would impact financial recovery by each creditor. The Cordia Trustee's complete liquidation of all Priority Administrative Claims *before* this evidentiary hearing provided additional certainty to the holders of allowed administrative claims, including various state, local and municipal taxing authorities, in gauging the economic benefits of the proposed Settlement. Exhibit "2" in evidence liquidated the Allowed Priority Administrative Claims at \$8,680,962.92. If the ThermoCredit Settlement and this Settlement were not approved, the Cordia Trustee would make less than a 2% distribution to the Holders of Allowed Priority Administrative Claims. In stark contrast, if both Settlements are approved and Illinois National funds the Settlement Amount of \$3,337,500.00 in a lump sum

⁷ See Exhibit "1" in evidence.

⁸ See Exhibit "2" in evidence.

payment after all the Conditions Precedent are satisfied, then the Cordia Trustee would make an approximate 56% distribution to the same Holders of Allowed Priority Administrative Claims.

13. The overall Settlement Amount that would otherwise not be available to the Cordia Debtors' estates or their creditors represents a substantial contribution of funds from the Illinois National D&O Policy. The Bar Order is integral to the Settlement.

14. All of the Enjoined Claims are deemed to be interrelated because all of the Enjoined Claims arise from, are related to, or derive from one or more of the Debtors or transactions conducted with the Debtors.

15. If the Bar Order is not entered, the Cordia Trustee and the Enjoined Parties and Enjoined Entities will continue to pursue the same limited pool of assets that will be depleted as the Named Insureds are forced to continuously defend against the same, similar or related causes of action prosecuted by multiple parties, all while the D&O Policy will continue to be depleted due to the continual incurrence of defense costs.

II. CONCLUSIONS OF LAW

A. **Jurisdiction**

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). This Court has subject matter jurisdiction over the Enjoined Claims pursuant to 28 U.S.C. § 157. The test to determine whether a bankruptcy court has subject matter jurisdiction over certain proceedings under 28 U.S.C. § 157 is "whether the outcome of the proceeding could conceivably have an effect on the estate being administered in bankruptcy." *Munford*, 97 F.3d at 453; *Gunnallen*, 443 B.R. at 914

(finding that the bankruptcy court had subject matter jurisdiction to enter a Bar Order sought in a proposed settlement pursuant to 28 U.S.C. § 157).

(I) ***Stern v. Marshall***

In reviewing the requested Bar Order, this Court has taken into consideration the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011). The specific issue in *Stern* was the constitutional authority for a bankruptcy court to enter judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor's proof of claim. *Id.* at 2620. The Court in *Stern* said that its decision was a "narrow" one and purported not to "meaningfully change the division of labor in the [bankruptcy] statute." *Id.*

Also, the United States District Court for the Southern District of New York recently issued its appellate decision from consolidated bankruptcy appeals arising from the *Bernard L. Madoff* bankruptcy case, relating to imposition of a Bar Order enjoining third-party actions against settling non-debtors as part of a Rule 9019 Settlement (See case no. 1:11-cv-01328-JGK). In footnote 5, District Judge John G. Koeltl addressed the finite issue adjudicated in *Stern* and concluded that it is not applicable to the approval of a settlement agreement containing a Bar Order.

B. **Notice and Opportunity to Be Heard**

The Motion and request for Bar Order was served on all parties listed on the All Creditor Matrix maintained by the Clerk of the Court. The Notice also included the location, date and time of the hearing on the Settlement incorporating the Bar Order. Additionally, the Cordia Trustee published repetitive notices regarding the Bar Order and how to object to same in the nationwide edition of The Wall Street Journal.

All of the Enjoined Claims which the Bar Order preclude are interrelated as they arise from, are related to, or derive from the Debtors and/or a transaction with the Debtors. The various taxing authorities where the Cordia Debtors conducted business hold significant claims and causes of action against one or more of the Bar Order Parties and have not objected to the entry of the Bar Order. In fact, no parties have objected to the relief requested and all parties who have made a record before the Court have supported the relief requested.

C. The Settlement

The Eleventh Circuit Court of Appeals has set forth standards for bankruptcy courts to apply in analyzing proposed settlements:

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

Wallis v. Justice Oaks II, Ltd. (In re Justice Oaks II, Ltd.), 898 F.2d 1544, 1549 (11th Cir. 1990), *cert. denied*, 498 U.S. 959 (1990). In considering these factors, the ultimate question is whether the proposed compromise is fair and equitable and in the best interests of the bankruptcy estate. *See Winn Dixie*, 356 B.R. at 251 (overruling certain objections to a proposed compromise and concluding that the settlement was in the best interest of the debtors' estates); *Gallagher*, 283 B.R. at 346 (“[T]he bankruptcy court must determine whether the proposed compromise is fair and equitable and in the best interests of the bankruptcy estate”). A bankruptcy court has broad discretion to approve a compromise and should do so unless the proposed settlement “falls below the lowest point in the range of reasonableness.” *In re Biocoastal Corp.*, 164 B.R. 1009, 1016 (Bankr. M.D. Fla. 1993)(quoting *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983)).

In considering each of the four factors in *In re Justice Oaks II, Ltd.*, the Court finds: (a) the outcome of the pending litigation is uncertain at best and will be lengthy and costly and could substantially drain the estate; (b) collection of a judgment would be difficult, as the Named Insureds have inconsequential non-exempt assets; (c) the legal issues involved are complex and involve multiple jurisdictions which will significantly delay the Cordia Trustee's administration of the estates; and (d) the best interests of all of the Debtors' creditors will be served in approving the compromise to ensure at least a partial recovery.

The Court finds the Settlement, based on the above factors, is fair, reasonable and in the best interests of the estates. It does not fall below the lowest point in the range of reasonableness. *In re Biocoastal Corp.*, 164 B.R. at 1009.

D. The Bar Order

The Eleventh Circuit has established that a bankruptcy court may approve a settlement that incorporates a bar order when (a) all potential enjoined entities are noticed regarding the motion and bar order and have an opportunity to object to the same, (b) the bankruptcy court has subject matter jurisdiction over the enjoined claims, and (c) the bar order is fair and equitable to the enjoined entities. *In re Munford, Inc.*, 97 F.3d 449, 453 (11th Cir. 1996); *In re Gunnallen Fin., Inc.*, 443 B.R. 908, 914 (Bankr. M.D. Fla. 2011). The Court's jurisdiction and proper notice of the Bar Order in this case are discussed in II.A. and II.B. above.

In considering whether a bar order is “fair and equitable” to the parties whose claims are being enjoined, the Court should consider (a) the interrelatedness of claims the bar order seeks to preclude, (b) the likelihood the enjoined parties will prevail on barred claims, (c) the complexity of the litigation, and (d) the likelihood of depletion of the settling parties' resources. *Id.* (citing *U.S. Oil & Gas v. Wolfson*, 967 F.2d 489, 496 (11th Cir. 1992)).

The Court must first determine if there is “some nexus” between the claims being barred and the bankruptcy case. *Id.* The test is “whether the outcome of the proceeding could conceivably have an effect on the estate being administered in bankruptcy.” *Id.* “An action is sufficiently related to bankruptcy if the outcome could alter the debtor’s right, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankruptcy estate.” *Lemco Gypsum*, 910 F.2d at 788.

In this case, the Named Insureds, will not settle if the Bar Order is not included in the Settlement. If there is no Bar Order, the Cordia Trustee will not receive the substantial benefit of the Settlement, including the cash payment and resolution of the Cordia Trustee Adversary Proceeding. Consequently, the Debtors’ estates would face continuing litigation costs that would further deplete the recovery, if any, available to the creditors of these estates. Also, the inconsequential non-exempt assets of the Named Insureds would most certainly be reduced or eliminated by the defense of multiple lawsuits, further limiting the bankruptcy estates’ already limited recovery.

Recently, the Eleventh Circuit affirmed this trial court’s decision to approve a bar order. Specifically, in *In Re Superior Homes & Investments, LLC*,⁹ 2013 WL 2477057 (11th Cir. June 10, 2013 Unpublished Opinion), the Appellate Court upheld the entry of a bar order as part of a Rule 9019 settlement finding that the bar order was fair and equitable. The scope of that bar order precluded prosecution against certain non-debtors, specifically the principals of the debtor and affiliated entities “that had any connection with the Defendants’ involvement in transactions, acts, occurrences, or events in any way related to the Debtor, or any affiliate thereto” in exchange for a payment of \$800,000, which represented 80 % of the collectible amounts from

those non-debtors (resulting in a 2.4% dividend to creditors) which the Eleventh Circuit found, under the circumstances, to be sufficient consideration. In the case at hand, the dividend to Holders of Allowed Administrative Priority Claims is estimated to be approximately 56%; yet such dividend would not otherwise be achievable, even if the Cordia Trustee were successful in all litigation, due to the fact that the D&O Policy is a wasting policy and the targeted Bar Order Parties have either no, or inconsequential, assets which could be economically liquidated for the benefit of the creditors, other than the waiver of their insured claims for defense costs, which waiver directly resulted in the funding of the \$3,337,500.00 Settlement Amount.

Based on the foregoing, and for the reasons set forth on the record, which are incorporated herein in their entirety pursuant to Bankruptcy Rule 7052, the Court herein finds and determines that (a) there is a “nexus” between the claims being barred and the instant case; (b) the “outcome of the proceeding could conceivably have an effect on the estates being administered in bankruptcy; (c) the Bar Order is “fair and equitable;” (d) the Bar Order is in the best interest of the Cordia Debtors’ bankruptcy estates and their creditors; and (e) the Cordia Trustee has satisfied the requirements of *Munford*, exercised prudent business judgment in connection therewith, and satisfied the legal standards to impose a Bar Order under the facts of these cases. Accordingly, it is

ORDERED AND ADJUDGED as follows:

1. The Settlement is APPROVED. Any and all objections to the Settlement are denied and expressly overruled.
2. The Bar Order is APPROVED. Any and all objections to the Bar Order are denied and expressly overruled.

⁹ Case Number 6:09-bk-01955, D.E. 232, *affirmed* on appeal to the District Court, Case No. 6:11-CV-1575, D.E. 29.

3. Illinois National is directed to pay the Settlement Funds pursuant to the Settlement once all of the conditions precedent in Paragraph IV(A)(ii) of the Settlement have been completely satisfied.

4. The required Settling Parties are directed to fulfill each and every term of the Settlement as set forth in Paragraphs 43(i) – (iv) of the Settlement.¹⁰

5. All other Settling Parties are directed to comply with each and every term of the Settlement.

6. The terms and scope of the Bar Order, specifically detailed in Section V of the Settlement are fully incorporated herein by reference.¹¹

7. For the reasons stated on the record, which are fully incorporated herein by reference, the Bar Order request is integral and material to the Settlement. This Order shall act as a permanent injunction against any and all Creditors, third parties of any type, including but not limited to any municipal, local or state taxing authorities, whether actually named or identified, holders of any direct or indirect claims against Geils Communication, Inc.; Geils Co., LLC; Geils Ventures, LLC; Byram IP Funding Corporation; Maria Abbagnaro; Kevin Griffo; Gandolfo Verra; Wesly Minella; Alexander Minella; and/or Patrick Freeman and all other Bar Order Parties, to the extent that any such claim arose, or is based in whole or in part, or is attributed to in any manner to Cordia Communications Corp., Cordia Communications Corp. of Va., My Tel Co., Inc., Midwest Marketing Group, Inc., Northstar Telecom, Inc., Cordia IP,

¹⁰ As contemplated by Paragraph 43(vi)(i) of the Settlement, this Court will issue a separate order authorizing the sale of certain Assets to Sippop Corp.

¹¹ To the extent of any inconsistency with the terms set forth in this Order and the terms of the Bar Order contained in Section V of the Settlement, this Order shall control.

Cordia Corp. or Cordia Prepaid, and/or any matter that could be covered for any purpose under the D&O Policy.

8. The Enjoined Parties and Enjoined Entities shall hereinafter be permanently and forever barred, enjoined and restrained, as set forth more fully below, from ever pursuing any and all claims or causes of action, demands or obligations of any kind whatsoever, whether such claim has previously matured, or has yet failed to mature, whether it is contingent or unliquidated, or whether it is known or unknown, whether seeking monetary claims or any other non-monetary claims or relief against (i) the Named Insureds, their legal or professional counsel, agents and assigns; (ii) any and all known or unknown principals, officers or directors, controlling persons, representatives and employees of any of the Cordia Debtors, Cordia IP, Cordia Corp. and Cordia Prepaid, their respective legal or professional counsel, agents and assigns; (iii) any and all known or unknown individuals or entities asserting or who hereafter may assert any basis for coverage under the D&O Policy, their respective legal or professional counsel, agents and assigns; and (iv) Illinois National and its affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing. The intent and purpose of the Bar Order is to directly and indirectly enjoin the most expansive and comprehensive group of third parties and entities, whether such party is known or unknown, identified or unidentified, suspected or unsuspected, from pursuing any and all claims or causes of action against the Bar Order Parties.

9. This Bar Order shall permanently bar, restrain and enjoin the The Enjoined Parties and Enjoined Entities from any matter whatsoever against the Bar Order Parties that arises from or relates to any matter whatsoever that has any relation to Cordia Communications Corp., Cordia Communications Corp. of Va., My Tel Co., Inc., Midwest Marketing Group, Inc.,

Northstar Telecom, Inc., Cordia IP, Cordia Corp. or Cordia Prepaid, their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing, including without limitation, from ever:

- a. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties, or their respective property, including the proceeds of such property, that arises from, is based upon or derives from any Claims held by the Enjoined Parties and Enjoined Entities against any of the Cordia Debtors, Cordia IP, Cordia Corp., Cordia Prepaid, or the Byram and Geils Entities, (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing);
- b. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties, or their respective property, including the proceeds of such property, that arises from, is related to, is based upon or derives from any of the Cordia Debtors', Cordia IP,'s Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), failure to perform under any agreement with any of the Enjoined Parties and Enjoined Entities or failure to perform any obligation owed to any of the Enjoined Parties or Enjoined Entities;
- c. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties, or their respective property, including the proceeds of such property, that arises from, is related to, is based upon or derives from any of the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), breach of contract, breach of warranty or breach of any other obligation owed to any of the Enjoined Parties or Enjoined Entities as a result of the same, or upon breach of any duty owed to any Enjoined Parties or Enjoined Entities whether based upon a theory of law or equity;
- d. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties, or their property including the proceeds of such property, that arises from, is based upon or derives from any of the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including

their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), businesses;

- e. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties, or their property, including the proceeds of such property, that arises from, is based upon or derives from any of the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), conduct, or any transaction or agreement by and among any of the Cordia Debtors, Cordia IP, Cordia Corp., Cordia Prepaid, the Byram and Geils Entities and any of the Bar Order Parties;
- f. Commencing, continuing or bringing any suit of any kind or asserting any claim or making a demand against any of the Bar Order Parties that would result in the avoidance of allegedly fraudulent or preferential transfers from any of the Cordia Debtors, Cordia IP, Cordia Corp., Cordia Prepaid, or the Byram and Geils Entities to any of the Bar Order Parties, (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), regardless of whether such Bar Order Party is the initial or subsequent transferees, and/or recovery of such allegedly fraudulent or preferential transfers from such Bar Order Party;
- g. Commencing, continuing or bringing any suit of any kind or asserting a claim or making a demand against any Bar Order Party, or its property, including the proceeds of such property, that arises from, is based upon or derives from the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), failure to pay, whether in whole or in part, any state, municipal or local tax assessments of any kind whatsoever;
- h. Defending against any suit or claim filed or initiated by any Bar Order Party, that arises from is based upon or derives from any of the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing), failure to pay, whether in whole or in part, any state, municipal or local tax assessments of any kind whatsoever;

- i. Collecting, recovering or receiving payments pursuant to any final judgment or order against any of the Bar Order Parties that arose from, is based upon or derives from any of the Cordia Debtors', Cordia IP's, Cordia Corp.'s, Cordia Prepaid's, or the Byram and Geils Entities', (including their affiliates, divisions, parents, subsidiaries, predecessors, successors, directors, officers, agents, attorneys, assigns, and all employees, agents or attorneys of the foregoing); (i) failure to perform any obligation owed to any of the Enjoined Parties or Enjoined Entities; (ii) breach of contract, breach of warranty or breach of any other obligation owed to any Enjoined Parties or Enjoined Entities as a result of the same; (iii) breach of any duty owed to any Enjoined Parties or Enjoined Entities whether based upon a theory of law or equity; or (iv) initial or subsequent transfer of assets to any of the Bar Order Parties;
- j. Enforcing any terms set forth in any settlement agreements by and between any of the Bar Order Parties and any of the Enjoined Parties or Enjoined Entities that would resolve, compromise or settle claims that would otherwise be enjoined by the Bar Order (collectively, the foregoing, as described in 9.a. through 9.j., are referred to as the "**Enjoined Claims**");
- k. Pursuing any of the Enjoined Claims recited herein as they relate to any claims against retained professionals including accountants and legal counsel as well as their agents and assigns of any of the Bar Order Parties;
- l. To the extent this Bar Order impairs any Enjoined Parties' or Enjoined Entities' rights to pursue and recover from any of the Bar Order Parties, or their property interests, such Enjoined Party or Enjoined Entity may be permitted to file a claim in the Cordia Debtors' or Cordia IP's bankruptcy cases equal to the value of such Enjoined Claims, **provided such claim is filed on or before thirty (30) days from the date of entry of this Order**, and such claim shall be deemed timely filed, but not automatically deemed an Allowed Claim. The Cordia Trustee and any interested parties, including without limitation, the parties hereto shall have the right to object to such claim(s).

10. This Court reserves jurisdiction regarding the interpretation, implementation, execution and enforcement of the terms of this Bar Order. The Bar Order Parties shall be afforded the same protections afforded a Trustee under the Barton Doctrine. Before any party or entity seeks to prosecute in any manner whatsoever any claims, debts or obligation they believe are not permanently enjoined by the Bar Order, such party must first seek relief from this

Bankruptcy Court, and such party shall be deemed to have affirmatively consented to the jurisdiction of this Bankruptcy Court to enter final orders and judgments on such issue. For the avoidance of doubt, all Enjoined Parties and Enjoined Entities are deemed to have consented to the Bar Order. If any party or entity violates the specific terms, general intent or spirit of this Order, such party or entity as well as its agent, representative or counsel may be subject to an Order to Show Cause as to why they should not be held in contempt of this Court.

11. This Order shall be binding and enforceable on the Cordia Trustee and the Settling Parties, their respective successors and assigns, as well as all creditors, parties-in-interest, individuals, entities and affected parties, notwithstanding any agreement, law, doctrine, document, or other evidence that may state to the contrary. All parties affected by the Settlement and Bar Order are deemed to have received proper Notice.

12. The terms and conditions of this Order shall be: (a) immediately enforceable pursuant to Federal Rule of Bankruptcy Procedure 8005; and (b) not be stayed absent (i) an application by a party in interest for a stay in conformity with Federal Rule of Bankruptcy Procedure 8005; and (ii) a hearing upon written notice to counsel to the Cordia Trustee and the Settling Parties.

13. The Cordia Trustee and the Settling Parties are authorized to take any and all actions and execute and deliver any and all documents necessary to effectuate the terms of the

Settlement, whether specifically delineated or not in the Settlement.

DONE AND ORDERED in Orlando, Florida on

KAREN S. JENNEMANN
Chief, United States Bankruptcy Judge

The Chapter 7 Trustee is directed to serve a copy of this order on all interested parties and file a proof of service within 3 days of entry of this order.