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10		Las Vegas, Nevada 89101 Tel: (702) 878-1115
11		Attorneys for QXH II, Inc.
12	UNITED STATES DISTRICT COURT	
	DISTRICT OF NEVADA	
13	In re:	Chapter 11
14	mile.	Chapter 11
15	EB HOLDINGS II, INC.,	Case No.: BK-S-19-16364-MKN
16	Debtor.	Adv. Pro. No. 20-01010-MKN
17		Case No. 2:20-cv-00461-KJD-BNW
18	EB HOLDINGS II, INC. and QXH II, INC.,	
19	Plaintiffs,	
	v.	
20	ILLINOIS NATIONAL INSURANCE	STIPULATED ORDER WITHDRAWING PENDING MOTION
21	COMPANY, CONTINENTAL	
22	CASUALTY COMPANY, FEDERAL INSURANCE COMPANY, BEAZLEY	
23	INSURANCE COMPANY, INC., AXIS INSURANCE COMPANY, ACE	
24	AMERICAN INSURANCE COMPANY,	
	IRONSHORE INDEMNITY INC., FREEDOM SPECIALTY INSURANCE	
25	COMPANY, ARCH INSURANCE COMPANY and ASPEN SPECIALTY	
26	INSURANCE COMPANY,	
27	Defendants.	
28		
	1	

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Case 2:20-cv-00461-KJD-BNW Document 34 Filed 07/07/20 Page 2 of 12

1	IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,
2	Inc. ("EBH"), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,
3	Inc. ("QXH II," and together with EBH, the "Insureds"), by and through its counsel, the law firms
4	of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley Insurance Company, Inc.
5	("Beazley"), by and through its counsel, the law firm of Christian, Kravitz, Dichter, Johnson &
6	Sluga, PLLC, as follows:
7	WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the
8	United States Bankruptcy Court for the District of Nevada (the "Bankruptcy Court"), thereby
9	commencing chapter 11 case no. 19-16364-MKN.
0	WHEREAS, on January 16, 2020, EBH and QXH II filed a Complaint in the Bankruptcy
1	Court, thereby commencing adversary proceeding no. 20-01010-MKN (the "Adversary").
2	WHEREAS, on March 4, 2020, Beazley filed Beazley Insurance Company, Inc.'s Motion
3	to Withdraw Reference [ECF No. 1] (the "Beazley's Motion to Withdraw the Reference"), thereby
4	commencing District Court case number 2:20-cv-00461-KDJ-BNW.
5	WHEREAS, on March 20, 2020, an Order Consolidating Cases [ECF No. 7] was entered
6	in District Court case number 2:20-cv-00461-KDJ-BNW consolidating District Court case
7	numbers 2:20-cv-00492-APG-NJK and 2:20-cv-00491-KJD-BNW with lead District Court case
8	number 2:20-cv-00461-KJD-BNW.
9	WHEREAS, on June 24, 2018, the Stipulation Dismissing Defendant Beazley Insurance
20	Company, Inc. Without Prejudice (the "Stipulation") was filed in the Adversary. The Stipulation,
21	attached hereto as Exhibit 1, provided for the withdrawal of the Motion to Withdraw the Reference
22	and a related pleading and for the dismissal of the Insureds' claims against Beazley without
23	prejudice.
24	WHEREAS, the Stipulation was approved by entry of the Order of the Bankruptcy Court
25	on June 25, 2020 (the " <u>Dismissal Order</u> "). A copy of the Dismissal Order is attached hereto as
26	Exhibit 2.
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Case 2:20-cv-00461-KJD-BNW Document 34 Filed 07/07/20 Page 3 of 12

1	NOW, THEREFORE, the Insureds and I	Beazley hereby stipulate and agree that Beazley's
2	Motion to Withdraw the Reference is hereby w	ithdrawn, with the parties to bear their own feet
3	and costs.	
4	Dated this 25th day of June, 2020.	
5	GARMAN TURNER GORDON LLP	K&L GATES LLP
6		
7	By: /s/Talitha Gray Kozlowski GREGORY E. GARMAN, ESQ.	By: /s/ Paul C. Fuener THOMAS E. BIRSIC, ESQ.
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12		Las Vegas, Nevada 89101 Attorneys for QXH II, Inc.
13	CHRISTIAN, KRAVITZ, DICHTER,	
14	JOHNSON & SLUGA, PLLC	
15		
16	By: <u>/s/ Gena L. Sluga</u> STEPHEN M. DICHTER, ESQ.	
17	GENA L. SLUGA, ESQ. L. RENEE GREEN, ESQ.	
18	8985 Eastern Avenue, Suite 200 Las Vegas, Nevada 89123	
19	Attorneys for Beazley Insurance Company, Inc.	
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2324		IT IS SO ORDERED:
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26		Beral
27		UNITED STATES DISTRICT JUDGE
28		DATED :7/7/2020

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EXHIBIT 1

EXHIBIT 1

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_	TERESA M. PILATOWICZ, ESQ.	K&L Gates Center
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		Attorneys for QXH II, Inc.
11		
12	UNITED STATES B	ANKRUPTCY COURT
12	FOR THE DIST	RICT OF NEVADA
13		
14	In re:	Chapter 11
15	EB HOLDINGS II, INC.,	Case No.: BK-S-19-16364-MKN
16	Debtor.	
10		
17		Adv. Pro. No. 20-01010-MKN
1.0	EB HOLDINGS II, INC. and QXH II, INC.,	
18		
19	Plaintiffs,	
1)	v.	STIPULATION DISMISSING
20		DEFENDANT BEAZLEY INSURANCE
0.1	ILLINOIS NATIONAL INSURANCE	COMPANY, INC. WITHOUT
21	COMPANY, CONTINENTAL CASUALTY COMPANY, FEDERAL	PREJUDICE AND WITHDRAWING
22	INSURANCE COMPANY, BEAZLEY	PENDING MOTIONS
	INSURANCE COMPANY, INC., AXIS	
23	INSURANCE COMPANY, ACE	
24	AMERICAN INSURANCE COMPANY, IRONSHORE INDEMNITY INC.,	
24	FREEDOM SPECIALTY INSURANCE	
25	COMPANY, ARCH INSURANCE	
	COMPANY and ASPEN SPECIALTY	
26	INSURANCE COMPANY,	
27	Defendants.	
		<u> </u>
28		

1	IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,
2	Inc. ("EBH"), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,
3	Inc. ("QXH II," and together with EBH, the "Insureds"), by and through its counsel, the law firms
4	of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley Insurance Company, Inc.
5	("Beazley"), by and through its counsel, the law firm of Christian, Kravitz, Dichter, Johnson &
6	Sluga, PLLC, as follows:
7	WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the
8	United States Bankruptcy Court for the District of Nevada, thereby commencing chapter 11 case
9	no. 19-16364-MKN.
10	WHEREAS, on January 16, 2020, EBH and QXH II filed a Complaint in the United States
11	Bankruptcy Court for the District of Nevada, thereby commencing this adversary proceeding,
12	adversary no. 20-01010-MKN (the "Adversary").
13	WHEREAS, on March 3, 2020, Beazley filed Beazley Insurance Company, Inc.'s Motion
14	to Withdraw Reference [ECF No. 48] (the "Motion to Withdraw the Reference"), thereby
15	commencing District Court case number 2:20-cv-00461-KDJ-BNW. ¹
16	WHEREAS, on March 11, 2020, Beazley filed a Joinder in Illinois National Insurance
17	Company's Motion to Dismiss Plaintiffs' Complaint Under FRBP 12(b)(1) [ECF No. 80] (the
18	"Joinder"), arguing, inter alia, that Plaintiffs' Complaint fails to state a justiciable cause of action
19	for declaratory relief against Beazley because the Complaint alleges that "[t]o date, the Insureds
20	have incurred substantial defense costs in connection with the GoldenTree Action and related
21	litigation, including in excess of \$25,000,000 in attorneys' fees and costs," and Beazley's policy
22	attaches in excess of underlying policies with limits of liability totaling \$50,000,000.
23	WHEREAS, Plaintiffs and Beazley have agreed to dismiss Plaintiffs' Complaint without
24	prejudice, subject to the understanding that Plaintiffs will seek coverage from Beazley for the
25	claims at issue in the Complaint only upon an allegation by Plaintiffs of damages reaching the
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¹ A similar stipulated order is being filed in case number 2:20-cv-00461-KDJ-BNW, pending in the United States District Court for the District of Nevada.

1	attachment point of Beazley's policy; moreover, in the event that Plaintiff's decide to pursue future		
2	claims against Beazley, they agree to serve Beazley with a copy of any motion to amend the		
3	complaint and to allow Beazley the opportunity to file a timely response to that motion.		
4	WHEREAS, the Insureds and Beazley have agreed to dismiss Beazley from the Adversary		
5	without prejudice and to vacate all pending matters by and between them, with each party to bea		
6	its own attorneys' fees and costs.		
7	NOW, THEREFORE, subject to entry of an Order approving this Stipulation, the Insured		
8	and Beazley hereby stipulate and agree as follows:		
9	Beazley withdraws its Joinder [ECF No. 80] and Motion to Withdraw the Reference		
10	[ECF No. 48];		
11	2. The Insureds' claims against Beazley filed in this Adversary are dismissed without		
12	prejudice; and		
13	3. The Insureds and Beazley shall each bear their own attorneys' fees and costs		
14	incurred to date with respect to the Adversary.		
15	Dated this 24th day of June, 2020.		
16			
17	GARMAN TURNER GORDON LLP K&L GATES LLP		
18			
19	By: /s/ Talitha Gray Kozlowski By: /s/Paul C. Fuener		
20	GREGORY E. GARMAN, ESQ. TALITHA GRAY KOZLOWSKI, ESQ. PAUL C. FUENER, ESQ.		
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25	Attorneys for QXH II, Inc.		
26			
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C6362:20-01-010416141KJD-1201-1466 DoEnterent 36/24/2601-57467320 Page 8 of 12

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2	JOHNSON & SLUGA, PLLC
3	Day /a/Carra I Chran
4	By: /s/ Gena L. Sluga STEPHEN M. DICHTER, ESQ.
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EXHIBIT 2

EXHIBIT 2

1 2 3 Honorable Mike K. Nakagawa United States Bankruptcy Judge 4 5 Entered on Docket June 25, 2020 6 GARMAN TURNER GORDON LLP **K&L GATES LLP** GREGORY E. GARMAN, ESQ. THOMAS E. BIRSIC, ESQ. 7 Nevada Bar No. 6654 (Admitted *Pro Hac Vice*) Email: ggarman@gtg.legal TALITHA GRAY KOZLOWSKI, ESQ. Email: thomas.birsic@klgates.com 8 PAUL C. FUENER, ESQ. Nevada Bar No. 9040 (Admitted *Pro Hac Vice*) 9 Email: tgray@gtg.legal Email: paul.fuener@klgates.com TERESA M. PILATOWICZ, ESQ. K&L Gates Center 10 Nevada Bar No. 9605 210 Sixth Avenue Email: tpilatowicz@gtg.legal Pittsburgh, Pennsylvania 15222-2613 11 7251 Amigo Street, Suite 210 Tel: (412) 355-6500 Las Vegas, Nevada 89119 12 Tel: (725) 777-3000 GHANDI DEETER BLACKHAM Attorneys for EB Holdings II, Inc. 13 SHARA L. LARSON, ESQ. Nevada Bar No. 7786 Email: shara@ghandilaw.com 725 S. 8th St., Suite 100 14 15 Las Vegas, Nevada 89101 Tel: (702) 878-1115 Attorneys for OXH II, Inc. 16 17 UNITED STATES BANKRUPTCY COURT 18 FOR THE DISTRICT OF NEVADA 19 In re: Chapter 11 20 EB HOLDINGS II, INC., Case No.: BK-S-19-16364-MKN 21 Debtor. 22 Adv. Pro. No. 20-01010-MKN 23 EB HOLDINGS II, INC. and QXH II, INC., 24 Plaintiffs, v. 25 ILLINOIS NATIONAL INSURANCE

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COMPANY, CONTINENTAL

CASUALTY COMPANY, FEDERAL

INSURANCE COMPANY, BEAZLEY INSURANCE COMPANY, INC., AXIS

ORDER DISMISSING DEFENDANT BEAZLEY INSURANCE COMPANY, INC. WITHOUT PREJUDICE AND WITHDRAWING PENDING MOTIONS

1	INSURANCE COMPANY, ACE
2	AMERICAN INSURANCE COMPANY, IRONSHORE INDEMNITY INC.,
3	FREEDOM SPECIALTY INSURANCE COMPANY, ARCH INSURANCE
4	COMPANY and ASPEN SPECIALTY INSURANCE COMPANY,
5	Defendants.
6	Plaintiffs EB Holdings II, Inc. (" <u>EBH</u> "), by and through its counsel, the law firm of Garman
7	Turner Gordon LLP, QXH II, Inc. ("QXH II," and together with EBH, the "Insureds"), by and
8	through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley
9	Insurance Company, Inc. ("Beazley"), by and through its counsel, the law firm of Christian,
10	Kravitz, Dichter, Johnson & Sluga, PLLC, entered into that certain Stipulation to Dismiss Beazley
11	Insurance Company, Inc. Without Prejudice and Withdrawing Pending Motions (the
12	"Stipulation"). Good cause appearing therefore;
13	IT IS HEREBY ORDERED that the Stipulation is approved in its entirety.
14	IT IS FURTHER ORDERED that Beazley's Joinder [ECF No. 80] and Motion to
15	Withdraw the Reference [ECF No. 48] are withdrawn.
16	IT IS FURTHER ORDERED that the Insureds' claims against Beazley filed in this
17	Adversary are dismissed without prejudice.
18	IT IS FURTHER ORDERED that the Insureds and Beazley shall each bear their own
19	attorneys' fees and costs incurred to date with respect to the Adversary.
20	IT IS SO ORDERED.
21	GARMAN TURNER GORDON LLP K&L GATES LLP
22	
23	By: /s/ Talitha Gray Kozlowski By: /s/ Paul C. Fuener
24	GREGORY E. GARMAN, ESQ. THOMAS E. BIRSIC, ESQ. PAUL C. FUENER, ESQ.
25	TERESA M. PILATOWICZ, ESQ. 7251 Amigo Street, Suite 210 210 Sixth Avenue
26	Las Vegas, Nevada 89119 Pittsburgh, Pennsylvania 15222 Attorneys for EB Holdings II, Inc.
27	

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 $^{^{1}}$ All capitalized, undefined terms shall have the meanings ascribed to them in the Stipulation.

Caase: 20-01-0104-611krJDDBN 1457DoEntrend 94/25/120 107/05/20 Page 1201612

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5	L. RENEE GREEN, ESQ. 8985 Eastern Avenue, Suite 200	
6	Las Vegas, Nevada 89123 Attorneys for Beazley Insurance	
7	Company, Inc.	
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