

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Court File No. 08-cv-05348 ADM/JSM

Plaintiff,

v.

THOMAS JOSEPH PETTERS, et al.,

Defendants.

**ORDER AUTHORIZING AND
CONFIRMING SETTLEMENT
AGREEMENT AND RELEASE
BETWEEN THE RETREAT AND
DOUGLAS A. KELLEY, RECEIVER**

This matter is before the Court on the motion of the Receiver for an order authorizing and confirming a settlement agreement and release between the Receiver and The Retreat [Docket No. 2447]. A hearing was held on March 26, 2013. Appearances were noted in the record. Based on the files and records herein and the oral arguments of counsel, the Court finds:

1. Douglas A. Kelley is the court-appointed receiver of the assets of Thomas J. Petters (“Petters”) and Thomas J. Petters Family Foundation (the “Foundation”) (the “Receiver”).

2. Petters and the Foundation made transfers to The Retreat during the period beginning on or about July 28, 2003 and ending on or about March 1, 2005, totaling \$1,005,000.00 (collectively the “Subject Transfers”).

3. The Receiver has made assertions and claims against The Retreat under the Minnesota Uniform Fraudulent Transfer Act, Minn. Stat. § 513.41 *et. seq.*, and/or other relevant state or federal law relating to the Avoidable Transfers and commenced a lawsuit

against The Retreat on April 3, 2012, *Kelley et al. v. The Retreat*, Case No. 12-cv-00844 DSD/JJG (D. Minn.).

4. The Receiver and The Retreat have negotiated a settlement of and release for all claims of the Receiver against The Retreat in exchange for the return of the Subject Transfers to the Receiver in the amount of \$350,000.00, which represents 35% of the amount claimed by the Receiver. The terms and conditions of the parties' agreement are set forth in the Settlement Agreement and Mutual Release filed with the Court (the "Agreement").

5. The Agreement is the most efficient method for recovering the Subject Transfers and its approval is in the best interest of the Receivership estate.

IT IS HEREBY ORDERED:

1. The Agreement [Docket No. 2448, Ex. 1] is approved.
2. The Receiver shall file a copy of this Order and Settlement Agreement with the Court in the action *Kelley et al. v. The Retreat*, Case No. 12-cv-00844 DSD/JJG (D. Minn.).
3. The Receiver and The Retreat are authorized to perform the terms of the Agreement.
4. All interested persons and parties have had a full and fair opportunity to litigate all issues raised by the Agreement, or which might have been raised, and the Agreement has been fully and fairly litigated.
5. This Court shall have exclusive jurisdiction of all matters arising out of, or related to, the Agreement.

6. The provisions of the Agreement shall bind any holder of a claim against the Receiver or The Retreat and such holder's respective successors and assigns.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: March 26, 2013.