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 AEQUITAS MANAGEMENT, LLC; AEQUITAS HOLDINGS,
 LLC; AEQUITAS COMMERCIAL FINANCE, LLC; AEQUITAS
 CAPITAL MANAGEMENT, INC.; AEQUITAS INVESTMENT
 MANAGEMENT, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

SECURITIES AND EXCHANGE
 COMMISSION,

Plaintiff,

v.

AEQUITAS MANAGEMENT, LLC;

No. 3:16-cv-00438-PK

DECLARATION OF BRAD FOSTER IN
 SUPPORT OF RECEIVER'S MOTIONS FOR
 AN ORDER (1) APPROVING SETTLEMENT
 AGREEMENT BETWEEN ASPEN GROVE
 EQUITY SOLUTIONS, and (2) AUTHORIZING
 TRANSFER OF ESTATE PROPERTY



AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,
LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK, BRIAN A. OLIVER;
and N. SCOTT GILLIS,

Defendants.

I, Brad Foster, declare as follows:

1. I am a Managing Director, Corporate Finance, at FTI Consulting, Inc. (“FTI”).

FTI was retained by Ronald Greenspan, the duly appointed receiver (“Receiver”) for the Receivership Entity.¹ Pursuant to the Order Authorizing Brad Foster and Larissa Gotguelf to Act on Behalf of the Receiver [Dkt. 245], I make this declaration in support of the Receiver’s Motions for an Order (1) Approving Settlement Agreement between Aspen Grove Equity Solutions and Private Advisory Group, and (2) Authorizing Transfer of Estate Property (the “Motion”) [Dkt. 555].

2. On March 16, 2016, pursuant to the Stipulated Interim Order Appointing Receiver, Mr. Greenspan was appointed as Receiver for the Receivership Entity on an interim basis (the “Interim Receivership Order”). [Dkt. 30]. On April 14, 2016, pursuant to the Order Appointing Receiver, Mr. Greenspan was appointed as Receiver for the Receivership Entity on a final basis (the “Final Receivership Order”) [Dkt. 156].

3. Pursuant to the Interim Receivership Order and the Final Receivership Order the Receiver has, among other things, undertaken to determine the nature, location and value of all Receivership Property. Although Pacific Advisory Group LLC (“PAG”) is not included within the Receivership Entity, Receivership Property includes Aspen Grove Equity Solutions, LLC’s ownership of 68.2% of the membership units of PAG (the “Units”).

¹ Capitalized terms not otherwise defined in this declaration shall have the meanings ascribed to them in the Motion or the Final Receivership Order, as applicable.

4. PAG is an investment advisory firm whose clients made substantial investments in Aequitas entities. PAG has or may assert claims against AGES, including but not limited to claims (a) arising from AGES's alleged failure to participate in financing PAG's purchase of a wealth management business from Enviso Capital Group, LLC, and (b) for reimbursement of attorneys' fees and costs incurred by PAG (the "Claims").

5. To settle PAG's Claims and consistent with the cooperative efforts to facilitate resolution of investor class action claims against PAG and other parties, PAG and AGES have entered into a Settlement and Unit Transfer Agreement dated as of October 31, 2017, a true copy of which is attached as Exhibit 1 (the "Settlement Agreement"). The principal terms of the Settlement Agreement, which is conditioned on approval of this Court, are as follows:

A. AGES shall transfer the Units to PAG;

B. PAG, and its Class A Common Unit members (other than AGES) (together, "Other Members") shall provide the following to AGES in exchange for the Units:

(i) Defense and indemnification from any claims asserted or that could be asserted against AGES or any other entity included in the Receivership Entity, by Enviso Capital Group LLC and holders of PAG Class B Common Units;

(ii) Full satisfaction of all professional fees incurred as of the Closing Date (as that term is defined in the Settlement Agreement) by PAG, including but not limited to \$298,894 in fees and costs from the Ryan Swanson law firm and \$61,767 in fees and costs from the Romero Park P.S. law firm, all of which have and/or will be paid for by PAG (or its insurers); and

(iii) A release of any and all claims against AGES by PAG (including the Claims) and all Other Members.

6. The Settlement Agreement also provides that if, within two years following the

date of the Settlement Agreement, PAG or its Class A Common Unit members receive value for the Units or admit additional members in exchange for anything of value, then the Receivership Entity is to receive 68.2% of the net value received by the advantaged party. (Settlement Agreement, ¶ 2.D).

7. There is substantial business justification for the Settlement Agreement. First, the Receiver believes that the Units have little or no value to the Receivership Entity, that there is little or no market for the Units, and therefore the Units are unlikely to generate any material return for the Receivership Estate, and its creditors and investors. However, if within two years PAG or its Class A Common Unit members do realize value on Class A Common Units, they are obligated pay the Receivership Entity on account of its 68.2% interest.

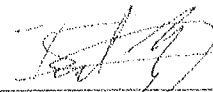
8. Secondly, AGES will be fully indemnified for claims asserted or that could be asserted by Enviso or other holders of PAG Class B Common Units.

9. Additionally, AGES will have no liability for PAG's attorneys' fees incurred through the Closing Date.

10. In in light of the above, the Receiver believes in the exercise of his business judgment and discretion that it is in the best interests of AGES and the Receivership Entity to enter the Settlement Agreement.

I declare under penalty of perjury under the laws of the state of Oregon that the foregoing statements and those contained in the attached exhibits, are true and correct to the best of my knowledge, information and belief.

Dated this 6th day of November, 2017.



Brad Foster, Managing Director, Corporate Finance
FTI Consulting, Inc.
On behalf of the Receiver, Ronald F. Greenspan

SETTLEMENT AND UNIT TRANSFER AGREEMENT

THIS SETTLEMENT AND UNIT TRANSFER AGREEMENT (the "Agreement") is entered into this 31st day of October, 2017, by and between Private Advisory Group LLC ("PAG"), and Aspen Grove Equity Solutions, LLC, through its Receiver Ronald F. Greenspan ("AGES")(collectively, the "Parties").

Recitals

A. On July 13, 2017, the Parties entered into a Settlement Agreement Term Sheet (the "Term Sheet") by which PAG agreed to acquire all of AGES' membership units and interest in PAG (the "Units") in exchange for the consideration set forth in the Term Sheet.

B. Pursuant to Paragraph 8 of the Term Sheet the Parties agreed to execute a final settlement agreement, which the Parties hereby do by virtue of entering into this Agreement.

Agreements

1. **Transfer of Units.** AGES hereby transfers and PAG hereby accepts the Units, on an "AS IS" basis, with no representations or warranties express or implied, for good and valuable consideration, the sufficiency of which is hereby acknowledged.

2. **Consideration.** In consideration of the transfer of the Units from AGES to PAG, PAG and its Class A Common Unit members other than AGES (the "Other Members") hereby agree to provide the following consideration:

A. **Indemnification.** PAG and the Other Members shall indemnify, defend and hold harmless AGES and its officers, directors, members, managers and agents, including any entity included within the Receivership Entity as that term is defined in the Order Appointing Receiver (the "Indemnified Parties") from and against any and all claims, allegations of liability, damages, losses, costs, or expenses whatsoever that have been or could be asserted by Enviso Capital Group LLC and/or PAG Class B Common Unit holders arising out of: (a) AGES's ownership or transfer of the Units on or before the Closing Date, specifically including but not limited to those claims set forth in California Superior Court, County of San Diego, Case No. 37-2016-00009462-CU-BC-CTL; (b) any claim or threatened claim relating to AGES's ownership or transfer of the Units on or before the Closing Date; (c) any claim or threatened claim arising from or related to the sale of the Units hereunder, and (d) any claim or threatened claim relating to an alleged breach or inaccuracy of any representation, warranty, or other term or condition contained in this Agreement.

B. **Satisfaction of Fees.** PAG and the Other Members shall satisfy all professional fees incurred through the Closing Date of this Agreement by PAG, including but not limited to \$298,894 in fees and costs incurred by Ryan Swanson & Cleveland, PLLC and \$61,767 in fees and costs from the Romero Park P.S. law firm, all of which have and/or will be paid for directly by PAG, except for \$100,000, which the Parties acknowledge shall be paid for by PAG's carrier Liberty Mutual.

C. Release. PAG, the Other Members and the spouses of the Other Members hereby release AGES from any and all claims, known or unknown, from the beginning of time through the date of this Agreement.

D. Potential Additional Payments. If PAG and/or any of the Other Members (A) consummate or agree to consummate a sale or other transfer of PAG membership units to a third-party in exchange for anything of value; (B) admit an additional member in exchange for anything of value; (C) experience any other positive equity event; or (D) experience an event resulting in receipt of value of \$100,000 or more (other than for provision of services in the ordinary course of business), within two (2) years of the date of execution of this Agreement, the advantaged party or parties will distribute to the Receivership Entity the monetary equivalent of 68.2% of the net value received within ten (10) days of receipt.

3. Closing. Closing shall occur simultaneously with the signing of this Agreement (the "Closing Date"). Closing shall take place at the offices of Private Advisory Group LLC, located at 16880 NE 79th Street, Redmond, Washington 98052, or at such other date and place as the Parties may agree. AGES will tender to PAG's counsel the original certificate evidencing the Units, endorsed to PAG or, if that original certificate cannot be located, execute a Lost Certificate Statement representing that the original certificate evidencing the Units could not be located.

4. Presentation to Court. The Parties acknowledge that the enforceability of this Agreement is conditioned upon approval by the Court in the Aequitas Receivership Action in the Federal District Court in Oregon, Cause No. 3:16-cv-00438-PK (the "Aequitas Receivership Action"). The Receiver will move for its approval and the Parties shall cooperate and use their best efforts to have the Court approve this Agreement. In the event the terms of this Agreement are not approved by the Court in the Aequitas Receivership Action, this Agreement shall be null and void. Upon approval of this Agreement in the Aequitas Receivership Action, PAG shall have no further obligation to AGES or the Receiver and PAG shall be free to run the company as it sees fit. PAG and the Other Members acknowledge that they will no longer be the beneficiary of the stay of legal matters entered in the Aequitas Receivership Action and that the stay will be lifted upon Court approval of this Agreement.

5. Party Cooperation. The Parties acknowledge that as additional consideration they are giving each other their mutual cooperation with one another to facilitate and finalize the settlement of the Brown Class Action in the federal district court in Oregon, Cause No. 3:17-cv-00869-HZ (the "Class Action"), which was approved by the court on or about October 16, 2017, and contains provision for PAG's insurance carrier, Liberty Mutual, to contribute \$5,000,000 toward said settlement of the Class Action.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assigns. The Parties agree and hereby acknowledge that there are no third-party beneficiaries to this Agreement.

7. **Entire Agreement.** This instrument contains the entire agreement of the Parties with respect to the transfer of the units and the other transactions contemplated herein, supersedes any and all prior agreements or understanding, written or oral, between the Parties, and may not be modified or amended in any way except in a written instrument signed by the Parties.

8. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any dispute or claim arising from this Agreement shall be resolved by Judge Papak in the Aequitas Receivership Action. In the event a dispute or claim arises after dismissal of the Aequitas Receivership Action, the U.S. District Court for the District of Oregon shall have exclusive jurisdiction.

9. **Good Faith.** The Parties represent and warrant that each party has acted toward the other in good faith, and agree to continue to so act, in the negotiation, execution, delivery, and performance of this Agreement.

10. **Facsimile and Electronic Transmission.** Facsimile and electronic transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as transmission of an original. At the request of either AGES or PAG, the Parties will confirm signatures transmitted by facsimile or electronic mail by signing an original document.

EXECUTED as of the date written above.

Private Advisory Group LLC

By: 

Its: CEO

Bean Holdings LLC

By: 

Its: Managing Member

Aspen Grove Equity Solutions, LLC
Through its Receiver Ronald F. Greenspan

By: 

Ronald F. Greenspan

Its: Receiver