

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No. 08-E-0053

**In the Matter of the Liquidation of  
Noble Trust Company**

**LIQUIDATOR'S MOTION FOR APPROVAL OF SETTLEMENT  
AGREEMENT WITH MARY A. RODNEY AND RELATED PARTIES  
WITH INCORPORATED SUPPORTING MEMORANDUM**

Glenn A. Perlow, Bank Commissioner for the State of New Hampshire, in his capacity as Liquidator of Noble Trust Company (the "Liquidator" and "Noble Trust," respectively), by his attorneys, the Office of the Attorney General, Sheehan Phinney Bass + Green, Professional Association, moves for the entry of an order approving the Settlement Agreement dated as of November 20, 2013 (the "Settlement Agreement")<sup>1</sup> by and between the Liquidator and Mary A. Rodney ("Rodney"), the Community of Christ aka the Reorganized Church of Jesus Christ of Latter Day Saints, a Missouri exempt religious organization (the "Church") and The Midwest Trust Company in its purported capacity as successor trustee of the Mary A. Rodney Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002. This Motion is supported by the Affidavit of Robert A. Fleury dated February 21, 2014 (the "Fleury Affidavit") and the Confidential Affidavit of Robert A. Fleury dated February 21, 2014. In support of this Motion, the Liquidator states as follows:

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<sup>1</sup> In accordance with this Court's Order Establishing Settlement Agreement Review Procedures dated December 5, 2012, a redacted copy of the Settlement Agreement is attached hereto as Exhibit A and the unredacted Settlement Agreement has been submitted to the Court with the Confidential Affidavit of Robert A. Fleury dated February 21, 2014. Parties wishing to review the unredacted Settlement Agreement may do so by contacting the Office of the Liquidator and following the Court approved procedures, including the execution of a confidentiality agreement. To the extent the redactions are of personal identifying information that an individual has requested be kept confidential, the Liquidator will not reveal such information without authorization from the particular individual or further order of the Court.

## Background

1. In 2003, Noble Trust was organized and chartered under the laws of the State of New Hampshire as a non-depository banking corporation, and subject to regulation by the New Hampshire Banking Department (the “Banking Department”). Colin P. Lindsey (“Lindsey”) was the president of Noble Trust and chairman of its board of directors.

2. As a result of irregularities discovered by the Banking Department’s 2008 examination of Noble Trust, on February 11, 2008, Commissioner Peter Hildreth commenced a liquidation proceeding by filing a Verified Petition for Liquidation (the “Liquidation Petition”) in this Court, seeking the appointment of a liquidator for Noble Trust pursuant to RSA 395:1, as well as related injunctive relief against Noble Trust pending the Court’s ruling on the Liquidation Petition (the “Liquidation Proceeding”).

3. On March 27, 2008, this Court entered an order (the “Liquidation Order”) appointing Commissioner Hildreth as liquidator of both Noble Trust and its parent company, Aegean Scotia Holdings, LLC (“Aegean Scotia”). The Liquidator is the duly appointed successor liquidator of Noble Trust and Aegean Scotia by order of this Court dated February 1, 2013.

4. Pursuant to a Trust Agreement dated June 22, 2002, Mary A. Rodney established the Mary A. Rodney Charitable Remainder Unitrust (the “Trust”). Fleury Affidavit ¶ 3. The Trust is the holder of a certain non-recourse promissory note dated December 3, 2003 in the original principal amount of \$1,620,000 made by the Church and payable to the order of The Children’s Community Foundation in its capacity as trustee of the Trust (the “Note”). The Note was delivered as payment for the purchase from the Trust of certain real estate located in Hendricks County, Indiana (the “Real Estate”). The Note is secured by a mortgage on the Real

Estate (the “Mortgage”). The Note requires annual payments of interest only in the amount of \$129,600 and a single payment of all outstanding principal on December 3, 2033. Noble Trust was appointed co-trustee of the Trust on January 15, 2008. Id.

5. On March 13, 2012, Rodney purported to remove Noble Trust, the Liquidator (to the extent applicable) and The Children’s Community Foundation as co-trustees of the Trust and to appoint The Midwest Trust Company (“Midwest”) as Trustee of the Trust. Fleury Affidavit ¶ 4. The Liquidator contends that the removal of Noble Trust as Trustee was ineffective because the act violated the terms of the Liquidation Order. Faced with conflicting claims as to the identity of the trustee of the Trust, the Church commenced an interpleader action against the Liquidator and Midwest in the District Court of Johnson County, Kansas, Case No. 13CV01980 (the “Interpleader Action”). In addition to the dispute regarding the purported removal of Noble Trust as Trustee, the Liquidator contends that the Note and the proceeds thereof are assets of Noble Trust that are included in the liquidation estate to be administered by the Liquidator in the Liquidation Proceeding. Rodney contends that the Note and the proceeds thereof are property of the Trust and are not subject to or assets of the liquidation estate. Id.

6. The Liquidator is holding three annual interest payments under the Note totaling \$388,800 paid to Noble Trust by the Church and the Church has paid two annual interest payments totaling \$259,200 to the Kansas court in the Interpleader Action (collectively, the “Interpleader Funds”). Fleury Affidavit ¶ 5.

7. Rodney is the insured under a life insurance policy issued to the Rodney Irrevocable Life Insurance Trust (the “ILIT”) by American General Life Insurance Company and dated March 18, 2004 in the face amount of \$1,000,000 (the “Policy”). Noble Trust has served as the Trust Administrator of the ILIT since November 1, 2003. Fleury Affidavit ¶ 6.

8. Rodney and the Church have also filed Proofs of Claim in the Liquidation Proceeding.

9. The Liquidator has moved the Kansas court in the Interpleader Action to dismiss the Interpleader Action on the basis that the court does not have personal jurisdiction over the Liquidator (the “Motion to Dismiss”). Alternatively, the Liquidator has asked the Kansas court to decline to exercise jurisdiction in the Interpleader Action in deference to this Court which is presiding over the Noble Trust liquidation and to avoid piecemeal litigation and the risk of inconsistent rulings on matters affecting the liquidation estate. The Liquidator’s Motion to Dismiss has been stayed by agreement of the parties and the Kansas court pending this Court’s consideration of the Settlement Agreement.

#### **The Noble Trust Ponzi Scheme**

10. Colin Lindsey was operating Noble Trust as a Ponzi scheme at the time that it became co-trustee of the Trust. Between the time when Noble Trust sustained its undisclosed losses due to the soured investments in Sierra Factoring, LLC, (the “Sierra Investments”) and the time when the Banking Department took control of Noble Trust, Noble Trust continued to solicit and accept funds from clients totaling at least \$4.5 million under the same promise of 12% returns that had been made to existing clients. Fleury Affidavit ¶ 7. Instead of investing the new clients’ money in legitimate investments, however, Noble Trust used some of these funds to pay fictitious profits to other clients and to redeem principal and pay interest to clients who terminated their relationship with Noble Trust. Id. However, the flow of incoming investments was insufficient for Lindsey and Noble Trust to maintain the concealment of the Sierra Investment losses. Id.

11. To continue the fraudulent concealment of its losses and perpetuate the Noble Trust Ponzi scheme, Lindsey devised and carried out a plan based upon the procurement and issuance of life insurance policies for the elderly, generally with face values between \$3 million and \$10 million. Fleury Affidavit ¶ 8. At Lindsey's direction, Noble Trust, acting as trustee or trust protector, caused applications to be submitted to various insurers. Many of the applications misrepresented the applicants' net worth or income, or averred that coverage was being sought as a means of individual estate planning. Id. Many of the insurance policy applications misstated the source of the premium financing, the terms of the premium financing, or both. Id. In reality, many of the individual insureds were persuaded to apply for insurance in part through promises of profits from the sale of their policies on the lucrative secondary market after the contestability period expired. Id. These insureds had little or no expectation that either they, or any other person with an insurable interest in their lives, would ever receive any death benefit from the policies. Id.

12. In most cases, once the policies were procured and issued, the insureds were not required to pay *any* premiums to keep the policies in force through the end of the two year contestability period. Fleury Affidavit ¶ 9. Instead, the premiums were paid on their behalf by means of limited-recourse premium financing loans (the "Premium Finance Loans"). Neither the insured nor any other individual had personal liability for repayment of the Premium Finance Loans; recourse was limited to the insurance trust, the sole asset of which was the life insurance policy. Id. The Premium Finance Loans were often funded by other Noble Trust clients and their trusts, investment management accounts or individual retirement accounts. Id. Thus, the insureds under the policies were promised and received "something for nothing" – they paid no

premiums, incurred no personal liability for the Premium Finance Loans, and were promised large windfalls for selling their policies after the contestability period expired.

13. In most instances, when the policies were placed in force, Lindsey or Balcarres Group, LLC<sup>2</sup> were paid substantial commissions (the “Commissions”) directly by the insurers or indirectly by the agents and producers that submitted the policy application. Fleury Affidavit ¶ 10. The Commissions were often equal to or greater than the first year annual premium for the policy. Some of the proceeds of the Commissions were used to fund premium payments for other policies or to repay other Premium Finance Loans. Other proceeds of the Commissions were used to cover up the loss of the Sierra Investments through distributions of fictitious profits or the repayment of principal to Noble Trust clients who had invested in Sierra, thus making it appear that the Sierra Investments were still performing according to their terms. Id. Upon information and belief, Lindsey and Noble Trust also intended to sell some of the policies (or the beneficial interests therein) on the lucrative secondary market to perpetuate the Noble Trust Ponzi scheme and continue to cover up the Sierra losses. Id.

14. Thus, Noble Trust was operated as a Ponzi scheme that utilized fresh investment funds from its clients and the Commissions to pay fictitious profits to its existing investors, to return principal to investors and to fund limited recourse Premium Finance Loans. Fleury Affidavit ¶ 11.

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<sup>2</sup> Lindsey also served as president or managing member of Balcarres, a Nevada limited liability company. Both Lindsey and Balcarres were licensed by the New Hampshire Insurance Department and acted as insurance brokers in procuring insurance policies for the benefit of Noble Trust’s clients. Pursuant to this Court’s Order dated November 13, 2009, the assets of Balcarres were declared to be property of the Liquidation Proceeding.

### **Summary of Settlement Agreement**<sup>3</sup>

15. Under the Settlement Agreement, the Liquidator will be paid a confidential settlement payment in full and final satisfaction of any and all right, title or interest the Liquidator and/or Noble Trust have in the Note; the Interpleader Action will be dismissed with prejudice and without costs and the Liquidator on the one hand and the Trust, Midwest, Mary Rodney and the Church on the other, shall release each other from any and all claims arising out of or related to the Note, the Trust or the Policy.

16. The Settlement Agreement addresses the Policy, although the terms of the settlement in regard to the Policy are confidential, and provides that the Liquidator will cause Noble Trust to resign as trustee of the Trust. The Settlement Agreement also provides that the claims filed by the Trust, the Church and Rodney in the Liquidation Proceeding are assigned to the liquidation estate.

17. By its terms, the Settlement Agreement does not become effective unless and until the entry of a final order (the "Approval Order") by the Court in the Liquidation Proceeding approving the Settlement Agreement. The Approval Order shall become final on the date that it shall have become non-appealable or, in the event of an appeal(s), on the date that it has been affirmed after all appeals therefrom have been exhausted.

### **The Settlement is a Fair and Reasonable Resolution of the Parties' Dispute**

18. Noble Trust is co-Trustee of the Mary A. Rodney Charitable Remainder Unitrust and in that capacity it has legal title to the Note made payable to the Trust by the Church. Under the terms of the Liquidation Order, the Liquidator is authorized and directed to take control of all

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<sup>3</sup> Notwithstanding the recitation in this Motion of the terms of the Settlement Agreement, this is a summary only and all parties in interest are urged to read the Settlement Agreement. In the event of any conflicts or inconsistencies between the summary contained in the Motion and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall control.

Noble Trust’s assets, *specifically* including assets held in trusts as to which Noble Trust is trustee, and to preserve and liquidate them for the benefit of Noble Trust’s clients and creditors. The Liquidation Order provides that, “The Liquidator is directed forthwith to take possession of and secure the assets, property, books, records, accounts, and other documents of [Noble Trust], Balcarres, and Aegean Scotia and to administer them under the orders of this Court, and is vested with exclusive possession, custody and control of all of the property . . . of [Noble Trust], Balcarres and Aegean Scotia, wherever located and by whomever possessed . . .” *Id.* at 3, ¶ (d). The Liquidator is also “authorized to transfer, invest, re-invest and otherwise deal with the assets and property of [Noble Trust] and Aegean Scotia as to effectuate their liquidation . . . .” *Id.* at 3, ¶ (e).<sup>4</sup> Lest there should be any doubt, the Liquidation Order expressly provides that, for purposes of the Noble Trust liquidation, Noble Trust shall include “all sub-trusts and protected trusts in which [Noble Trust] holds an interest, whether directly or indirectly.” *Id.* at 3, ¶ (b).

19. The Liquidator’s treatment of the Note pursuant to the Settlement Agreement is consistent with prior settlements agreements approved by this Court and, more generally, the treatment of assets that remain in a Ponzi scheme when the scheme is discovered and terminated. Courts in Ponzi scheme cases uniformly endorse the pooling of assets and pro rata distribution where “the funds of the defrauded victims were commingled and where victims were similarly situated with respect to their relationship to the defrauders.” Kathy Bazoian Phelps & Steven Rhodes, The Ponzi Book: A Legal Resource for Unraveling Ponzi Schemes § 6.05[1][b] (2012) (quoting S.E.C. v. Credit Bancorp, Ltd., 290 F.3d 80, 88-89 (2d Cir. 2002)); see also Cunningham v. Brown, 265 U.S. 1, 13 (1924); U.S. v. Durham, 86 F.3d 70, 72 (5th Cir. 1996);

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<sup>4</sup> The Liquidator is not acting as trustee, co-trustee, or trust protector for any of the trusts or sub-trusts established by Noble Trust for its clients. The Liquidation Order does not confer that status on the Liquidator, and the Liquidator has not sought that status except upon motion to the Court for specified purposes.

Hirsch v. Arthur Anderson & Co., 72 F.3d 1085, 1088 n.3 (2d Cir. 1995); S.E.C. v. Elliott, 953 F.2d 1560, 1569 (11th Cir. 1992); S.E.C. v. Byers, 637 F.Supp.2d 166, 179-80 (S.D.N.Y. 2009); Jobin v. Youth Benefits Unlimited (In re M&L Bus. Mach. Co.), 164 B.R. 148, 151 (D. Colo. 1994); Gaffney v. Rubino (In re Builders Capital & Servs., Inc.), 317 B.R. 603, 611 (Bankr. W.D.N.Y. 2004); Henderson v. Allred (In re W. World Funding, Inc.), 54 B.R. 470, 475-76 (Bankr. D. Nev. 1985). Courts have deemed these equitable principles “especially appropriate for fraud victims of a ‘Ponzi scheme’ . . . . In such a scheme, whether at any given moment a particular customers’ assets are traceable is ‘a result of the merely fortuitous fact that the defrauders spent the money of other victims first.’” Credit Bancorp, 290 F.3d at 89 (internal citations omitted). Such cases “call strongly for the principle that equality is equity . . . .” Cunningham, 265 U.S. at 13.

20. Courts in Ponzi scheme liquidations and receiverships have applied the principle of pooling even where a claimant can identify its asset among the property of the estate. For instance, in S.E.C. v. Elliott, investors in a Ponzi scheme transferred identifiable securities to the Ponzi perpetrator. Prior to the receivership, the perpetrator sold some, but not all, of the securities. The investors objected to the pooling and ratable distribution of their identifiable securities, but the trial court approved the receiver’s plan and the Eleventh Circuit affirmed, holding that:

These investor/appellants are attempting to recover the securities that Elliott retained with their names on them. Legally, these investors occupy the same position as the other investors whose securities were sold. All investors were defrauded. All investors were cleverly persuaded to part with their securities. . . . “To allow any individual to elevate his position over that of other investors similarly ‘victimized’ by asserting claims for . . . reclamation of specific assets . . . would create inequitable results, in that certain investors would recoup 100% of their investment while others would receive substantially less. . . . [I]n the context of this receivership the remedy . . . to trace and reclaim

specific assets . . . is disallowed as an inappropriate equitable remedy.” We cannot say that the district court abused its discretion . . . . A district court has broad powers and wide discretion to determine the appropriate relief in an equity receivership. . . . [S]ince these creditors occupied the same legal position as other creditors, equity would not permit them a preference; for “equality is equity.”

S.E.C. v. Elliott, 953 F.2d at 1569-70 (internal citations omitted). Similarly, in Credit Bancorp, the Second Circuit considered “whether shares of stock transferred to a company that defrauded the transferor and numerous other victims can be included in the receivership estate of the defrauding company for purposes of a *pro rata* distribution to the defrauded victims.” Credit Bancorp, 290 F.3d at 82. The court noted that the particular investor’s “claim is distinguishable from that of many of CBL’s customers only in that the eight million Vintage Petroleum shares it deposited were not converted into cash and are currently being held in CBL’s brokerage accounts.” Id. at 85. The court then rejected the investor’s arguments for reclamation and affirmed the district court’s distribution scheme:

[W]hatever . . . interest [the investor] might have in the . . . shares . . . does not defeat the equitable authority of the District Court to treat all the fraud victims alike . . . and order a *pro rata* distribution. Courts have favored *pro rata* distribution of assets where, as here, the funds of the defrauded victims were commingled and where victims were similarly situated with respect to their relationship to the defrauders. . .

Id. at 89 (internal citations omitted).

21. In the absence of the Settlement Agreement, the Liquidator would seek to have the Note and the proceeds thereof declared property of the liquidation estate available for ratable distribution to the creditors of Noble Trust. Mrs. Rodney would contend that the Note is the property of the Trust that she established and that the Note and its proceeds should be set apart from the other assets of the liquidation estate and distributed exclusively to the Trust. Fleury Affidavit ¶ 15.

22. The Settlement is the result of arms-length negotiations between the parties and their counsel and is a fair, reasonable and adequate resolution of the parties' dispute. The Settlement Agreement will result in the payment of a material sum to the estate and resolve the Interpleader Action. Therefore, the Settlement Agreement maximizes the value of the liquidation of Noble Trust by creating a fund that will be available to claimants of the estate, subject to further order of the Court, and relieves the estate of further costs and from the inherent uncertainty of the pending litigation. The Liquidator believes that entering into the Settlement Agreement is an appropriate and prudent exercise of the Liquidator's judgment. Fleury Affidavit ¶ 16.

23. Accordingly, the Liquidator believes that approval of the Settlement Agreement is in the best interests of Noble Trust, its creditors, and all parties in interest. See In re Liquidation of The Home Ins. Co., 154 N.H. 472, 489-90 (2006).

WHEREFORE, the Liquidator requests that the Court (i) enter an order, in substantially the same form submitted herewith as Exhibit B, granting the Motion and approving the Settlement Agreement, and (ii) grant the Liquidator such other and further relief as is just.

Respectfully submitted,

Dated: February 27, 2014

GLENN A. PERLOW, BANK COMMISSIONER  
OF THE STATE OF NEW HAMPSHIRE,  
AS LIQUIDATOR OF NOBLE TRUST COMPANY

By his attorneys,

ANN M. RICE, DEPUTY ATTORNEY GENERAL

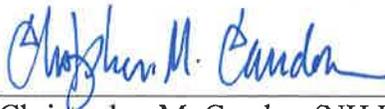
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# **EXHIBIT A**

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") made this 20th day of November, 2013, by and among Glenn A. Perlow, Bank Commissioner for the State of New Hampshire, in his capacity as Liquidator of Noble Trust Company (the "Liquidator"), Mary A. Rodney, an individual residing in Danville, Indiana ("Rodney"), the Community of Christ, aka the Reorganized Church of Jesus Christ of Latter Day Saints, a Missouri exempt religious organization (the "Church") and The Midwest Trust Company ("Midwest") in its capacity as successor trustee of the Mary A. Rodney Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002 (the "Trust"), a Kansas trust company (the "Trustee").

The premises of this Agreement are as follows:

Rodney and her husband established the Trust under a trust agreement dated June 22, 2002. The Trust is the holder of a certain non-recourse promissory note dated December 3, 2003 in the original principal amount of \$1,620,000 made by the Church and payable to the order of The Children's Community Foundation in its capacity trustee of the Trust (the "Note"). The Note was delivered as payment for the purchase from the Trust of certain real estate located in Hendricks County, Indiana (the "Real Estate"). The Note is secured by a mortgage on the Real Estate (the "Mortgage"). The Note requires annual payments of interest only in the amount of \$129,600 and a single payment of all outstanding principal on December 3, 2033. Noble Trust Company ("Noble") was appointed co-trustee of the Trust on January 15, 2008.

The Liquidator was appointed liquidator of Noble by order of the Merrimack County, New Hampshire Superior Court on March 27, 2008 (the "Liquidation Order"). The Liquidation Order commenced the Liquidation Proceeding of Noble (the "Liquidation Proceeding") and created a Liquidation Estate comprised of all property interests of Noble as described in the Liquidation Order, as it has been amended and clarified to date (the "Liquidation Estate"). The Liquidation Proceeding is ongoing in the Superior Court for Merrimack County, New Hampshire (the "Liquidation Court").

On March 13, 2013, Rodney purported to remove Noble, the Liquidator (to the extent applicable) and The Children's Community Foundation as co-trustees of the Trust and to appoint Midwest as Trustee of the Trust. The Liquidator contends that the removal of Noble as Trustee was ineffective because the act violated the terms of the Liquidation Order. Faced with conflicting claims as to the identity of the trustee of the Trust, the Church commenced an interpleader action against the Liquidator and Midwest in the District Court of Johnson County, Kansas, Case No. 13CV01980 (the "Interpleader Action"). In addition to the dispute regarding the purported removal of Noble as Trustee, the Liquidator contends that the Note and the proceeds thereof are assets of Noble that are included in the Liquidation Estate to be administered by the Liquidator in the Liquidation Proceeding. Rodney contends that the Note and the proceeds thereof are property of the Trust and are not subject to or assets of the Liquidation Estate.

The Liquidator is holding three annual interest payments under the Note totaling \$388,800 paid to Noble by the Church and the Church has paid two annual interest payments totaling \$259,200 to the Court in the Interpleader Action (collectively, the "Interpleader Funds").

Rodney is the insured under a life insurance policy issued to the Rodney Irrevocable Life Insurance Trust (the "ILIT") by American General Life Insurance Company and dated March 18, 2004 (the "Policy"). The Trustee is not and has never served as trustee of the ILIT.

Rodney and the Church have filed Proofs of Claim in the pending liquidation proceeding of Noble.

The parties to this Agreement wish to resolve all outstanding claims between and among them pursuant to the terms of this Agreement.

Now Therefore, in consideration of the foregoing and the mutual promises set forth below, the parties hereto hereby agree as follows:

1. **The Settlement Sum.** Subject to the terms and conditions of this Agreement, in full and final satisfaction of any and all claims and interest of Noble, the Liquidation Estate and/or the Liquidator in the Note or the proceeds thereof, the Liquidator shall receive the sum of [REDACTED] (the "Settlement Sum").

[REDACTED] Upon Payment of the Settlement Sum to the Liquidator pursuant to the terms of this Agreement, Noble, the Liquidator and the Liquidation Estate shall have no further interest in or right to retain any sums paid or payable under the Note other than the Settlement Sum and all such amounts other than the Settlement Sum shall thereafter be payable to the order of the Trustee in accordance with the terms of the Note. The Settlement Sum shall be held by the Liquidator free and clear of all liens, claims and encumbrances held by the Trust, Rodney, the Church or any other person or entity.

2. **Resignation of Noble Trust as Trustee.** Because the parties disagree as to whether the removal of Noble as trustee of the Trust was effective, within five (5) business days following payment of the full Settlement Sum to the Liquidator, the Liquidator shall cause Noble Trust to resign as trustee of the Trust effective as of the date of Court Approval.
3. **Note and Trust Files.** Within ten (10) days following full payment of the Settlement Sum to the Liquidator, the Liquidator shall deliver to the Trustee all original documents pertaining to the Note and copies of all other documents pertaining to the Note that are within the possession of the Liquidator. The Liquidator may keep copies of such documents for his records.
4. **Dismissal of Interpleader Action.** Within ten (10) days following Court Approval, the parties shall stipulate to the dismissal of the Interpleader Action with prejudice

and without costs and the Church shall cause such stipulation to filed in the Interpleader Action (the "Stipulation"). The Stipulation shall provide for endorsement by the judge in the Interpleader Action and shall instruct the clerk of the District Court for Johnson County, Kansas to promptly distribute Interpleader Funds in the amount of [REDACTED]

5. Assignment of Claims. The Trustee, Rodney and the Church hereby assign to the Liquidator without recourse any and all claims that any of them may have against Noble, the Liquidator or the Liquidation Estate, including any and all claims evidenced by Proofs of Claim filed in the Noble Liquidation Proceeding, that arise from or are related to the Trust (the "Assigned Claims").

6. The Policy. [REDACTED]

7. Release of Rodney Parties. Subject to the terms and conditions of this Agreement, the Liquidator hereby releases, remises and forever acquits the Trustee and its officers, directors, agents, employees and attorneys in their respective capacities as such, the Church and its officers, directors, agents, employees and attorneys in their respective capacities as such, Rodney and the Trust from any and all claims or liability of any kind or nature whatsoever relating to or arising out of the Note, the Real Estate, the Trust, the Policy or the Interpleader Action, howsoever arising, whether known or unknown, from the beginning of the world to the date of this Agreement. Nothing in the preceding sentence shall release or affect in any way the obligations of the Trustee, the Church, Rodney or the Trust under this Agreement.
8. Release of the Liquidator. Subject to the terms and conditions of this Agreement, the Trustee, the Church, Rodney and the Trust each hereby release, remise and forever acquit the Liquidator, his agents, employees and attorneys in their respective capacities as such and the Liquidation Estate from any and all claims or liability of any kind or nature whatsoever relating to or arising out of the Note, the Real Estate, the Trust, the Policy or the Interpleader Action, howsoever arising, whether known or unknown, from the beginning of the world to the date of this Agreement. Nothing in the preceding sentence shall release or affect in any way the obligations of the Liquidator under this Agreement and provided further that the foregoing release shall apply to the Assigned Claims only at the election of the Liquidator in the exercise of his discretion.

9. Release of the Trustee by Rodney. Subject to the terms and conditions of this Agreement, Rodney hereby releases, remises and forever acquits the Trustee and its officers, directors, agents, employees and attorneys in their respective capacities as such, from any and all claims arising from the Trustee's agreement herein to release the Liquidator or the Church and from any tax liabilities arising from the acts or omissions of any previous trustees.
10. Court Approval. This Agreement is subject to Court Approval. The Liquidator agrees to move the Liquidation Court for entry of an order approving this Agreement (the "Approval Order") promptly following the complete execution of this Agreement. The Trustee, the Church and Rodney shall support entry of the Approval Order. Court Approval shall occur on the date that the Approval Order becomes final and no longer subject to appeal or, in the event of an appeal, the date that all appeals of the Approval Order are dismissed or overruled and the Approval Order is affirmed.
11. Confidentiality. Except as set forth in the following sentence, the amount of the Settlement Sum and Section 6 hereof shall be confidential and shall not be disclosed by the parties hereto except as required by law or court order, to their agents, accountants or attorneys and for the purpose of enforcing the terms of this Agreement. The pleadings seeking approval of this Agreement shall redact the Settlement Sum and an un-redacted version of this Agreement shall be provided to the Court and, subject to the consent of the Liquidator in the exercise of his discretion, shall be provided to parties in interest in the Liquidation Proceeding that sign a Confidentiality Agreement satisfactory to the Liquidator.
12. Miscel. Each party hereto shall bear its own expenses, including legal expense, in relation to the Interpleader Action, the preparation of this Agreement and the consummation of the transactions described in this Agreement. This Agreement shall be governed by the laws of the New Hampshire, without giving effect to New Hampshire choice of law principles. Any and all disputes and controversies relating to this Agreement shall be heard and determined exclusively in the Liquidation Court. This Agreement contains the entire agreement among the parties with respect to the subject matter hereof. All prior negotiations among the parties are merged into this integrated Agreement. This Agreement may only be amended by a written instrument signed by the parties hereto or their duly appointed successors. The parties acknowledge that they have all had input into the drafting of this Agreement and that no inferences shall be drawn or ambiguities resolved on the basis that any one party prepared this Agreement to the exclusion of the other parties.
13. Further Assurances. Each party hereto shall execute and deliver such additional documents as may reasonably be required to more fully implement the terms of this Agreement, provided that a party shall not be required to incur any out of pocket expense in connection therewith.

14. No Effect Absent Court Approval. Absent Court Approval, the terms of this Agreement shall be without prejudice to the positions of the parties and shall not be admissible in any subsequent litigation among the parties except in the event of litigation asserting a breach of this Agreement.

15. Notice.

The Liquidator: Glenn A. Perlow  
Bank Commissioner of the State of New Hampshire,  
as Liquidator of Noble Trust Company  
PO Box 2765  
Concord, New Hampshire 03302  
Attn: Abigail Shaine

With a copy to: Drummond Woodsum  
Attn: Benjamin Marcus, Esq.  
84 Marginal Way, Suite 600  
Portland, Maine 04101-2480

The Trustee: Midwest Trust Company  
Attn: Lana Britz  
5901 College Boulevard, Suite 100  
Overland Park, Kansas 66211

Mary A. Rodney: 1322 S. County Road 300 E.  
Danville, Indiana 46122

With a copy to: Christopher C. Hagenow, Esq.  
Hopper Blackwell, P.C.  
111 Monument Circle, Suite 452  
Indianapolis, Indiana 46204

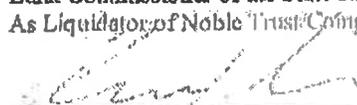
The Church: Karen E. Minton  
General Counsel  
Community of Christ  
1001 W. Walnut St.  
Independence, MO 64050

With a copy to: Mark M. Iba  
Stinson Morrison Hecker LLP

1201 Walnut St., Suite 2900  
Kansas City, MO 64106

Executed as of the date first set forth above.

Glenn A. Perlow  
Bank Commissioner of the State of New Hampshire,  
As Liquidator of Noble Trust Company

  
\_\_\_\_\_  
Glenn A. Perlow, Liquidator

\_\_\_\_\_  
Mary A. Rodney, individually

THE MIDWEST TRUST COMPANY,  
in its capacity as successor trustee of the Mary A. Rodney  
Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002

By: \_\_\_\_\_  
Print Name:  
Its:

THE COMMUNITY OF CHRIST,  
aka the Reorganized Church of Jesus Christ of Latter Day Saints

By: \_\_\_\_\_  
Print Name:  
Its:

1201 Walnut St., Suite 2900  
Kansas City, MO 64106

Executed as of the date first set forth above.

Glenn A. Perlow  
Bank Commissioner of the State of New Hampshire,  
As Liquidator of Noble Trust Company

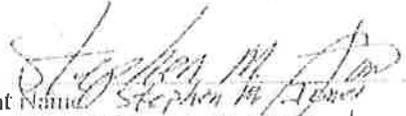
\_\_\_\_\_  
Glenn A. Perlow, Liquidator

\_\_\_\_\_  
Mary A. Rodney, individually

THE MIDWEST TRUST COMPANY,  
in its capacity as successor trustee of the Mary A. Rodney  
Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002

By: \_\_\_\_\_  
Print Name:  
Its:

THE COMMUNITY OF CHRIST,  
aka the Reorganized Church of Jesus Christ of Latter Day Saints

By:   
Print Name: Stephen M. Jones  
Its: Presiding Bishop

1201 Walnut St., Suite 2900  
Kansas City, MO 64106

Executed as of the date first set forth above.

Glenn A. Perlow  
Bank Commissioner of the State of New Hampshire,  
As Liquidator of Noble Trust Company

\_\_\_\_\_  
Glenn A. Perlow, Liquidator

\_\_\_\_\_  
Mary A. Rodney, individually

THE MIDWEST TRUST COMPANY,  
in its capacity as successor trustee of the Mary A. Rodney  
Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002

By: Lana L. Britz  
Print Name: LANA L. BRITZ  
Its: Vice President

THE COMMUNITY OF CHRIST,  
aka the Reorganized Church of Jesus Christ of Latter Day Saints

By: \_\_\_\_\_  
Print Name:  
Its:

*Mary A. Rodney*

Mary A. Rodney, individually

THE MIDWEST TRUST COMPANY,

in its capacity as successor trustee of the Mary A. Rodney

Charitable Remainder Unltrust under Trust Agreement dated June 22, 2002

By: \_\_\_\_\_

Print Name:

Its:

THE COMMUNITY OF CHRIST,

aka the Reorganized Church of Jesus Christ of Latter Day Saints

By: \_\_\_\_\_

Print Name:

Its:

# **EXHIBIT B**

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No. 08-E-0053

**In the Matter of the Liquidation of  
Noble Trust Company**

**ORDER APPROVING SETTLEMENT AGREEMENT  
WITH MARY A. RODNEY AND RELATED PARTIES**

Upon consideration of the Liquidator's Motion for Approval of Settlement Agreement With Mary A. Rodney and Related Parties with Incorporated Supporting Memorandum dated February 27, 2014 (the "Motion") pursuant to which Glenn A. Perlow, Bank Commissioner for the State of New Hampshire, in his capacity as Liquidator of Noble Trust Company (the "Liquidator" and "Noble Trust," respectively), seeks approval of a Settlement Agreement by and between the Liquidator and Mary A. Rodney ("Rodney"), the Community of Christ aka the Reorganized Church of Jesus Christ of Latter Day Saints, a Missouri exempt religious organization (the "Church") and The Midwest Trust Company ("Midwest") in its purported capacity as successor trustee of the Mary A. Rodney Charitable Remainder Unitrust under Trust Agreement dated June 22, 2002 (the "Settlement Agreement"); the Motion having been given and served upon all creditors and other interested persons entitled thereto as evidenced by the Certificate of Service submitted with respect to the Motion; this Court having reviewed the Motion, the Affidavit of Robert A. Fleury in Support of the Motion and the unredacted Settlement Agreement filed under seal in accordance with this Court's Order Establishing Settlement Agreement Review Procedures dated December 5, 2012; there being no objections to the Motion; and the Court being otherwise fully advised in the premises and having found that the Settlement Agreement is an appropriate and prudent exercise of the Liquidator's judgment, is

fair and reasonable and is in the best interests of this estate and its creditors; and, after due deliberation and sufficient cause appearing therefor; it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is granted and the Settlement Agreement is approved. The Liquidator, Midwest in its capacity as Trustee, Rodney and the Church and all other parties are authorized to take all steps and execute all documents necessary or convenient to consummate or otherwise enter into the Settlement Agreement.

2. The Liquidator has given adequate and sufficient notice of the relief requested in the Motion to all parties entitled thereto and has complied with all applicable requirements of due process with respect to the Motion and the relief requested therein.

3. Pursuant to the Settlement Agreement, the Proofs of Claim filed in the Liquidation Proceeding by Midwest in its capacity as Trustee, Rodney and the Church are assigned to the Liquidator.

4. The Liquidator is authorized to cause Noble Trust to resign as trustee of the Mary A. Rodney Charitable Remainder Unitrust, subject and pursuant to the terms of the Settlement Agreement.

So Ordered.

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Hon. Larry M. Smukler

**CERTIFICATE OF SERVICE**

I, Christopher M. Candon, hereby certify that on February 27, 2014, a copy of the foregoing pleading was served by first class mail, postage prepaid on the parties listed below.<sup>1</sup>

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Midwest Trust Company  
Attn.: Lana Britz  
5901 College Blvd., Ste. 100  
Overland Park, Kansas 66211



Christopher M. Candon

<sup>1</sup> Simultaneously herewith, the Liquidator has filed a Certificate of Service that evidences a broader service of the pleading on claimants and other parties in interest.