

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re:</b>	:	<b>Chapter 11</b>
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<b>DREIER LLP,</b>	:	<b>Case No. 08-15051 (SMB)</b>
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	:	
<b>Debtor.</b>	:	
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**STIPULATION AND ORDER AMENDING SECOND STIPULATION AND ORDER  
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE AND FEDERAL  
RULE OF BANKRUPTCY PROCEDURE 4001 (1) AUTHORIZING TRUSTEE’S  
CONTINUED USE OF CASH COLLATERAL, (2) PROVIDING ADEQUATE  
PROTECTION, AND (3) GRANTING RELATED RELIEF**

Upon the Motion (the “Motion”), dated March 14, 2012, of Sheila M. Gowan, chapter 11 trustee for Dreier LLP (the “Trustee”), seeking this Court’s approval to settle adversary proceeding nos. 10-04602 entitled *Sheila M. Gowan, chapter 11 trustee for the estate of Dreier LLP v. Wachovia Financial Services, Inc.*, and 10-05458 entitled *Sheila M. Gowan, chapter 11 trustee for the estate of Dreier LLP v. Wachovia Bank, N.A. and Wells Fargo Bank, N.A., in its capacity as successor-by-merger to Wachovia Bank, N.A.* (collectively, the “Litigation”) pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure; and upon consideration of the Motion, any response(s) thereto, and the representations of counsel at properly noticed and conducted hearings before the Court, it is hereby STIPULATED AND ORDERED as follows:

**RECITALS**

WHEREAS, on May 21, 2009, the Court “So Ordered” that certain Second Stipulation and Order Pursuant to Section 363 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 4001 (1) Authorizing Trustee’s Continued Use of Cash Collateral, (2) Providing

Adequate Protection, and (3) Granting Related Relief (the "Second Amended Cash Collateral Order").

WHEREAS, in December 2010, the Trustee commenced the Litigation seeking to, among other things, avoid certain pre-petition and post-petition transfers from DLLP to Wachovia Bank, N.A. and Wachovia Financial Services, Inc., and seeking to equitably subordinate the WB Proof of Claim.

WHEREAS, following extensive arm's length discussions, the Trustee, Wachovia Bank, N.A., and Wells Fargo Bank, N.A. in its capacity as successor-by-merger to Wachovia Bank, N.A. (collectively, the "Parties") STIPULATE AND AGREE that, as part of their agreement to resolve the Litigation, the Second Amended Cash Collateral Order should be amended as set forth herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND ORDERED that the Second Amended Cash Collateral Order shall be and hereby is amended as follows:

1. Paragraphs 6(b), 6(d), 6(e) and 6(f), 8, 17, 18, and 19 of the Second Amended Cash Collateral Order shall be and hereby are replaced with the following:

6. b. subject to Wachovia's and the Trustee's separate Right of Abandonment (defined in subparagraph d, below) and entry of a interim or final compensation order by this Court, professional fees and expenses associated with the collection of Hourly Receivables and expenses, if any, associated with the collection of Contingency Receivables (the "Collection Expenses") shall be paid on a monthly basis by Wachovia and the Trustee. Forty percent (40%) of such Collection Expenses shall be paid by Wachovia and 60% of such Collection Expenses shall be paid by the Trustee. Retained

professionals seeking reimbursement for Collection Expenses are hereby directed to bill and invoice Wachovia and the Trustee separately for Collection Expenses as set forth herein.

6. d. with reasonable advance notice in writing of not less than 10 business days to Wachovia or the Trustee, and the Committee and the retained professional, Wachovia and/or the Trustee may abandon all interest in the potential proceeds of any particular Hourly Receivable (an "Abandoned Receivable"), and upon expiration of such notice period, Wachovia's and/or the Trustee's obligation to pay for Collection Expenses with respect to such Abandoned Receivable shall thereafter cease (a "Right of Abandonment").

6.e. if the Trustee exercises a Right of Abandonment, Wachovia shall be entitled to proceed with the pursuit of any such Abandoned Receivable and all resulting proceeds, if any, shall be retained by Wachovia; provided, that fees and expenses of retained professionals associated with the pursuit of any Abandoned Receivable may continue to accrue notwithstanding the abandonment and any unpaid fees and expenses associated with such Abandoned Receivable shall be paid in full by Wachovia from the first dollars recovered on such Abandoned Receivable. If Wachovia exercises a Right of Abandonment, the Trustee (subject to her independent Right of Abandonment) or the Committee shall be entitled to proceed with the pursuit of any such Abandoned Receivable and all resulting proceeds, if any, shall be transferred to the Debtor's estate free and clear of any liens and claims of Wachovia; provided that fees and expenses of retained professionals associated with the pursuit of any Abandoned Receivable may continue to accrue notwithstanding the abandonment and any unpaid fees and expenses associated with such Abandoned Receivable shall be paid from first dollars recovered on such Abandoned Receivable.

6. f. for the avoidance of doubt, Wachovia and the Trustee separately agree to pay for their proportional share of Collection Expenses accrued through the period 10 business days after written notice provided by Wachovia and/or the Trustee with respect to any Abandoned Receivable.

8. To the extent Paragraph 8 provides for the payment of reasonable fees and expenses associated with the retrieval of Closed Debtor Records, 40% of any such reasonable fees and expenses shall be paid by Wachovia and 60% shall be paid by the Trustee.

17. Proceeds from the collection of Hourly Receivables, Bankruptcy Receivables, and Contingency Receivables (collectively the "AR Proceeds") shall be paid to the Trustee who, within five (5) business days following receipt thereof, shall make the following distributions in the following order of priority:

a. First, reimbursement of Collection Expenses advanced by Wachovia prior to October 1, 2011 in the amount of \$38,082.24 shall be paid to Wachovia;

b. Second, accrued and unpaid fees and expenses owing to professionals retained by the Trustee or the Committee (whether hourly or contingent fee and including with respect to any Abandoned Receivable) associated with the matter being settled or otherwise resolved shall be paid to such professional or into a segregated account for the sole benefit of such professional;

c. Third, reimbursement of Collection Expenses incurred on or after October 1, 2011 that are associated with the matter being settled or otherwise resolved shall be paid to Wachovia and the Trustee in the respective amounts previously advanced by each of them;

d. Fourth,

i. with respect to the first \$250,000 of AR Proceeds actually received by the Trustee on or after October 1, 2011, net of amounts paid pursuant to subparagraph a above (the "Net AR Proceeds"), 100% of such Net AR Proceeds shall be

retained by the Debtor's estate free and clear of any Wachovia liens or claims.

ii. with respect to all Net AR Proceeds in excess of \$250,000 actually received by the Trustee following October 1, 2011, 40% of such Net AR Proceeds shall be paid to Wachovia in reduction of the Wachovia Proof of Claim, and 60% of such Net AR Proceeds shall be retained by the Debtor's estate free and clear of any Wachovia liens or claims.

e. [Deleted]

18. [Deleted]

19. [Deleted]

2. Except as otherwise set forth herein, the Second Amended Cash Collateral Order remains effective, and nothing contained herein shall be interpreted or applied to impact the rights of any party in interest with respect to the Second Cash Collateral Order except as expressly set forth herein.

DATED: March 14, 2012

AGREED AND STIPULATED TO:

/s/ Howard Ressler  
Howard D. Ressler, Esq.  
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11 trustee for Dreier LLP**

/s/ Julie Dyas  
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**Counsel for Official Committee of  
Unsecured Creditors**

AGREED AND STIPULATED TO:

/s/ Jordan Siev  
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**Counsel for Wachovia Bank, N.A. and  
Wells Fargo Bank, N.A., successor-by-merger  
to Wachovia Bank, N.A.**

**SO ORDERED: April 19<sup>th</sup>, 2012**

/s/ STUART M. BERNSTEIN  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE