



1. On February 27, 2001, James A. Knauer was appointed Examiner herein.
2. On March 28, 2001, James A. Knauer was appointed Receiver over all assets and interests of Relief Defendant Eleven Eight-Five, LP ("1185"). In the Receiver's efforts to recover property for the estate, the Receiver obtained information indicating that 1185 had made a \$100,000 loan to Terrill.
3. After further investigation, it was determined by the Receiver that Terrill repaid \$20,000 of the \$100,000 loan to 1185 prior to this Court's Order of Permanent Injunction and Other Equitable Relief of February 27, 2001.
4. Subject to this Court's approval, the Receiver and Terrill have agreed to fully settle the Receiver's claim against Terrill in the amount of \$80,000 ("Settlement Amount"). A copy of the Release & Escrow Agreement between the Receiver and Terrill is attached hereto as Exhibit "A".
5. The Receiver has conferred with his counsel, and upon further review of the records and information held by the Receiver and the information received from Terrill, the Receiver is satisfied that it is in the best interest of the estate to accept the Settlement Amount.
6. Pursuant to Local Rule, the administration of receivership estates should be conducted "as nearly as may be in accordance with the practice in the administration of estates in bankruptcy[.]" S.D.Ind. L.R. 66.1(e). When considering whether to approve a settlement under Bankruptcy Rule 9019, a bankruptcy court must determine whether the proposed

settlement is in the best interests of the estate." In re Energy Co-Op, Inc.,  
886 F.2d 921, 927 (7th Cir. 1989). In this case, the settlement is  
unquestionably reasonable, because your Receiver is recovering the  
entire sum presently owing to 1185.

### REQUEST FOR RELIEF

Your Receiver respectfully requests authority to settle his claim against Terrill  
and approval of the form of the attached Release and Escrow Agreement.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

By: James A. Knauer / BCR  
James A. Knauer, Receiver

By: Brett R. Fleitz  
Brett R. Fleitz  
Attorney for Receiver

Kroger, Gardis & Regas  
111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204-5125  
(317) 692-9000

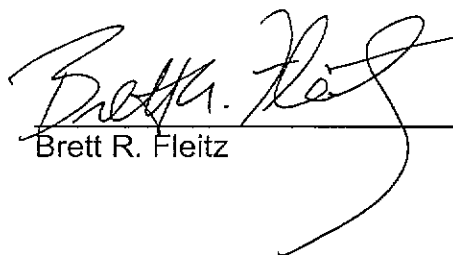
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served upon the following parties by placing a copy of the same in the United States Mail, first class postage pre-paid, on this 1<sup>st</sup> day of June, 2001:

Thomas J. Eme  
Scott Hlavacek  
United States Securities and Exchange Commission  
500 West Madison Street  
Suite 1400  
Chicago, Illinois 60661-2511

John E. Brinker, Jr.  
4287 Wellington Dr.  
Cincinnati, OH 45245-1942

Gary J. Bentz  
11961 Fallcreek Lane  
Loveland, Ohio 45140-4809

  
Brett R. Fleitz

**Kroger, Gardis & Regas, L.L.P.**  
111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204-2152

RELEASE & ESCROW AGREEMENT

This Release & Escrow Agreement ("Agreement") between James A. Knauer, the Receiver/Examiner herein, and Mr. Jerry Terrill ("Terrill") is made this 23 day of May, 2001.

RECITALS

**WHEREAS** James A. Knauer is the Court-appointed Receiver/Examiner (hereafter "Receiver") in the cause styled United States Securities and Exchange Commission v. John E. Brinker, Jr., et al., United States District Court, Southern District of Indiana, Cause No. IP01-0259-C (the "Civil Action"); and

**WHEREAS**, Terrill entered into a certain "Loan Agreement" with Eleven Eighty-Five Limited Partnership and/or John E. Brinker in May, 2000, pursuant to which he received \$100,000.00. A copy of the Loan Agreement is attached hereto and incorporated by reference as Exhibit "A"; and

**WHEREAS** the Court issued its Order of Permanent Injunction and other Equitable Relief ("Asset Freeze Order") against the defendants (including John E. Brinker, Jr. and 1185) on February 27, 2001; and

**WHEREAS**, Terrill repaid Twenty Thousand Dollars and 00/100 (\$20,000) to Eleven Eighty-Five on February 2, 2001, prior to the entry of the Asset Freeze Order herein; and

**WHEREAS**, Terrill desires to satisfy in full his obligations to Eleven Eighty-Five pursuant to the Loan Agreement; and

**WHEREAS**, Terrill is not and was not an investor in any of the defendants or relief defendants (collectively, the "Defendants") in the Civil Action; and

**WHEREAS**, Terrill is not and was not otherwise, except as set forth in this Agreement, engaged in any business activities with any of the Defendants in the Civil Action, and did not

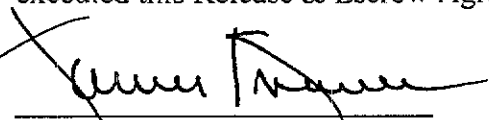


receive any transfer of money or property from any of the Defendants, or any business entity owned or controlled by and of the Defendants or any family member of any of the individual Defendants.

**NOW, THEREFORE**, in consideration of (i) the execution of this Agreement; (ii) the payment of Eighty Thousand Dollars and 00/100 (\$80,000) as more specifically described herein; and (iii) the mutual declarations and representations set forth in this Agreement, Terrill and the Receiver agree as follows:

1. Incorporation Clause. The above recitals and foregoing preambles are incorporated herein by reference as if set forth at length and made part of this Agreement.
2. Payment of Funds to Escrow. Upon execution of this Agreement, Terrill shall issue an Eighty Thousand Dollar and 00/100 (\$80,000) check payable to "James A. Knauer, Receiver." The check shall be held in escrow by the Receiver, and shall be deposited into a receivership estate account upon Court approval of this Agreement. If the Court does not approve this Agreement, the escrowed funds shall be returned to Terrill.
3. Release. Upon court approval and conditioned upon the foregoing representations, this shall constitute a full and final release of Terrill's obligations to repay the debt evidenced by the Loan Agreement, and shall be deemed a release of any claims of the Receiver against Terrill related to the Loan Agreement.

**IN WITNESS WHEREOF**, the parties intending to be legally bound hereby have executed this Release & Escrow Agreement as of the respective dates set forth below.

  
\_\_\_\_\_  
James A. Knauer, Receiver

Date: 5/30/01

Jerry Terrill  
Jerry Terrill

Date: 5-23-2001

**John E. Brinker, Jr.**  
4287 Wellington Drive  
Cincinnati, Ohio 45245  
(513) 943-1221 Telephone • (513) 943-1222 Fax

**Loan Agreement**

The purpose of this document is to set forth the terms of the Agreement between John E. Brinker, Jr. and Jerry Terrill in the simplest way possible.

John E. Brinker, Jr. hereby agrees on May 30, 2000, to advance to Jerry Terrill the sum of \$100,000.00 USD for the purpose of the purchase of a condominium for his mother. This condominium along with several other properties presently owned by Jerry Terrill, are in a funding arrangement with John Brinker's company, Eleven Eighty-Five. It is the express intent of Eleven Eighty-Five to fund these properties and to recover this \$100,000.00 advance from the proceeds. In signing this agreement, Jerry Terrill agrees that such recovery can be made in cash at closing with no interest.

Should Eleven Eighty-Five be unable to fund the properties which are now in the Agreement, John E. Brinker, Jr. and Jerry Terrill hereby agree that this advance will become a loan with simple interest of 6% per year and a repayment schedule is to be worked out by mutual consent of both parties. This later option will be exercised only if and when Eleven Eighty-Five has exhausted every available option for funding the properties in question.

John E. Brinker, Jr.

Signature

Date

Witness

Signature

Date

Jerry Terrill

Signature

Date

Witness

Signature

Date

Exhibit "A"