

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is entered into by and between William Deans (“Deans”) and the Las Vegas-Clark County Library District (the “District”) (each separately a “Party” and jointly, the “Parties”). The Agreement is effective as of the date it is signed by both Parties (the “Effective Date”).

Recitals

- A. A dispute has arisen between the Parties.
- B. The dispute is the subject of a lawsuit now pending in the United States District Court in the District of Nevada, bearing Case Number 2:16-cv-02405-APG-PAL (the “Lawsuit”).
- C. The Parties wish to fully and finally compromise and settle any and all issues, allegations, claims, defenses, rights and obligations which they may have against each other which are related in any way to the dispute. Likewise, the Parties wish to fully and finally compromise and settle any and all issues, allegations, claims, defenses, rights and obligations which they may have against each other which have been asserted or which could have been asserted based on the allegations set forth in the Lawsuit, or which are in any way connected to the conduct alleged in or giving rise to the Lawsuit, on the terms and conditions expressed in this Agreement, including, but not limited to, claims for attorney’s fees, costs, and pre- or post-judgment interest.

NOW, THEREFORE, for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties agree as follows:

/ / /

SECTION 1

Purpose of Compromise and Settlement

The Parties have entered into this Agreement for the purpose of settling and compromising any and all claims which they may have against one another which have been asserted or which could have been asserted in the Lawsuit, including, but not limited to, claims for attorney's fees, costs, and pre- and post-judgment interest. Nothing contained in this Agreement, its performance, or any negotiations leading up to this Agreement, shall be deemed to be an admission of any kind by any Party.

SECTION 2

No Admission of Liability

The Parties acknowledge, understand, and agree that no Party admits any liability of any sort or to any extent by entering into this Agreement or by providing any consideration to another Party; but rather, the Parties acknowledge, understand, and agree that this Agreement and the consideration furnished hereunder are made to compromise and satisfy all disputed claims set forth in Section 1 above.

SECTION 3

Mutual Release

Effective upon execution of this Agreement, the Parties, for good and valuable consideration, the adequacy of which is hereby acknowledged, do hereby forever release, acquit, and discharge each other, their principals, present and past partners, officers, directors, managers, members, shareholders, trustees, agents, employees, attorneys, successors, heirs, assigns, executors, executrices, administrators, parent companies, subsidiaries, affiliates, related entities, and any other legal representatives from any and all claims, actions, causes of action, demands, counterclaims, costs, losses, suits, rights, damages, attorney's fees, interest, and expenses of any

kind whatsoever, whether known or unknown, fixed or contingent, accrued or not yet accrued, matured or not yet matured, anticipated or unanticipated, asserted or unasserted, arising from or relating directly or indirectly to the Lawsuit, and any and all claims which one Party may have against the other Party which have been asserted or which could have been asserted in the Lawsuit, including, but not limited to, claims for attorney's fees, costs, and pre- or post-judgment interest.

The Parties acknowledge that they have been fully advised and represented by legal counsel of their selection in the negotiation and execution of this Agreement. They further represent that they are fully familiar with all of the circumstances surrounding the claims and matters released; and, that in executing this Agreement, they are relying solely upon their own independent judgment and the advice of their own counsel. They further represent that—except as contained herein—they have not been influenced in any way whatsoever by any representation, statement, or action by any of the Parties released under this Agreement, or their officers, employees, agents, representatives, or attorneys.

The Parties acknowledge that they may have sustained claims, damages, or losses that are presently unknown and unsuspected and that any such claim, damages, or losses as were sustained may give rise to additional claims, damages, or losses in the future that are not now anticipated. The Parties acknowledge that this release has been negotiated and agreed upon in light of these factors, and the Parties expressly waive any rights they may have under any state or federal statute or common law which might affect the ability to waive and release such claims.

The Parties acknowledge that they are aware that they may hereafter discover material facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Lawsuit. The Parties further acknowledge that there may be

future events, circumstances, or occurrences materially different from those they know or believe likely to occur. It is the intention of the Parties to fully, finally, and forever settle and release all claims, disputes, and differences referred to above, known or unknown, suspected or unsuspected, which do now exist, may exist, or heretofore have existed, and hereafter may arise between the Parties, including, but not limited to, claims for attorney's fees, costs, and pre- or post-judgment interest, and that in furtherance of such intention, the release provided for in this Section shall be and remains in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different facts, or occurrence of such future events, circumstances, or conditions.

Each party shall indemnify and hold harmless any releasee from and against any claims (including the payment of attorney's fees and costs actually incurred, whether or not litigation is commenced), based on or in connection with or arising out of any action or other proceeding brought by or prosecuted directly or indirectly for the benefit of a party contrary to the provisions of this release.

SECTION 4

Mutual Warranties

The Parties warrant and represent that they have not assigned or transferred to any person not a Party hereto any claim or matter, or any part or portion thereof, released under this Agreement. Each Party shall indemnify and hold harmless every other Party from and against any claims (including the payment of attorney's fees and costs actually incurred, whether or not litigation is commenced) based on or in connection with or arising out of any such assignment or transfer, purported or claimed.

SECTION 5

Dismissal of Lawsuit

The Parties agree that the Lawsuit shall be dismissed in its entirety with prejudice, with each party to bear its own costs and attorney's fees. A Stipulation and Order for Dismissal With Prejudice, attached to this Agreement as Exhibit 1, shall be executed by counsel for the Parties and, upon delivery of the payment provided for herein to Mr. Deans' counsel, in accordance with Section 6, below, shall within 3 days thereafter be submitted by Mr. Deans' counsel to the Court for approval and signature, and thereafter filed by Mr. Deans' counsel.

SECTION 6

Payment of Money to [Plaintiff]

In full settlement of any and all claims by Mr. Deans against the District arising out of or relating to the subject of the Lawsuit, including, but not limited to, any claims for attorney's fees, costs, or pre- or post-judgment interest, the District shall pay or cause to be paid to Mr. Deans the sum of \$150,000.00.

The payment of \$150,000.00 shall be made by check, which shall be payable to "William Deans care of Randazza Legal Group Trust." Payment shall be delivered to Plaintiff's counsel by the 29th of November 2018.

SECTION 7

Tax Consequences

The Parties shall each be solely responsible for any tax consequences to them resulting from the Payment made under this Agreement and received by them. The Parties understand, acknowledge, and agree that no Party, and no Party's counsel, has rendered any tax advice whatsoever to any other Party regarding any tax consequences relating to or arising out of this Agreement.

SECTION 8

Binding Effect

This Agreement shall inure to the benefit of and be binding upon the Parties and their respective agents, representatives, officers, directors, members, managers, heirs, successors, related entities, and assigns. This Agreement is not intended to create, and shall not create, any rights in any person who is not a party to this Agreement.

SECTION 9

Waiver

Neither the failure nor any delay on the part of any Party to exercise any right, remedy, power, or privilege under this Agreement shall operate as a waiver of that right, remedy, power, or privilege. No waiver of any right, remedy, power, or privilege with respect to any particular occurrence shall be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence.

SECTION 10

Entire Agreement

This Agreement contains the entire agreement and understanding between the Parties in connection with the settlement of the Lawsuit. This Agreement may be changed or terminated only by a written instrument executed by the Parties after the Effective Date.

SECTION 11

Construction

This Agreement is the product of joint collaboration and negotiations among the Parties and their respective attorneys. The Parties acknowledge that each of them has reviewed this Agreement and has had the opportunity to have it reviewed by their respective attorneys.

The terms and conditions of this Agreement shall be construed as a whole according to their fair meaning and not strictly for or against any Party. The Parties also acknowledge that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement, including its exhibits or any amendments.

SECTION 12

Severability

If any term or provision of this Agreement, or the application of any term or provision of this Agreement, shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable, all provisions, covenants, and conditions of this Agreement, and all of its applications, not held invalid, void, or unenforceable, shall continue in full force and effect and shall not be affected, impaired, or invalidated in any way.

If any portion of this Agreement is challenged by any person not a Party to this Agreement, then the Parties to this Agreement shall defend the Agreement. The costs of said defense shall be borne by the Parties as their interests may appear.

SECTION 13

Breach by a Party

The failure or claimed failure of one Party to this Agreement to perform its obligations hereunder shall not excuse the performance of the other Party hereto.

SECTION 14

Attorney's Fees

In any action or proceeding to enforce the terms of this Agreement, or to redress any violation of this Agreement, the prevailing Party shall be entitled to recover as damages its attorney's fees and costs incurred, whether or not the action is reduced to judgment. For the

purposes of this provision, the “prevailing Party” shall be that Party who has been successful with regard to the main issue, even if that party did not prevail on all the issues.

SECTION 15

Governing Law and Forum

This Agreement is made under and is to be governed by, and construed under, the laws of the State of Nevada.

Any lawsuit to interpret or enforce the terms of this Agreement shall be brought in the United States District Court in the District of Nevada or Nevada’s Eighth Judicial District Court in and for Clark County, Nevada.

SECTION 16

Necessary Action

Each of the Parties shall do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Agreement.

SECTION 17

Notices

Any and all notices and demands by or from any Party required or desired to be given under this Agreement shall be in writing and shall be validly given or made if served either personally or if deposited in the United States Mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served by registered or certified mail in the manner provided, service shall be conclusively deemed given upon receipt or attempted delivery, whichever is sooner.

Any notice to the District shall be addressed as follows:

Las Vegas-Clark County Library District
c/o Dennis L. Kennedy
Bailey♦Kennedy

8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302.

Any notice to Mr. Deans shall be addressed as follows:

William Deans
c/o Randazza Legal Group, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117
<ecf@randazza.com>

Any party may change its address for receiving notices or demands by a written notice given in the manner provided in this Section, which notice of change of address shall not become effective, however, until its actual receipt by the other party.

SECTION 18

Time Is of the Essence

The Parties agree and acknowledge that time is of the essence and that all of the actions contemplated herein shall be accomplished as soon as practicable and without delay.

SECTION 19

Execution in Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, with the same effect as if each Party had executed all counterparts.

This Agreement may be executed by facsimile signatures, which shall be deemed as effective and as binding as original signatures.

SECTION 20

Authority to Execute

Each Party warrants that it has the authority to sign this Agreement, and each individual executing this Agreement on behalf of any entity specifically warrants that he or she has the authority to bind that entity by his or her signature.

SECTION 21

Miscellaneous

The captions appearing at the commencement of the sections of this Agreement are descriptive only and for convenience in reference to this Agreement, and they shall not define, limit, or describe the scope of intent of this Agreement, nor in any way affect this Agreement.

Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places in this Agreement in which the context requires such substitution or substitutions.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT

By: _____

Title: _____

Date: _____

Approved as to form and content:
BAILEY♦KENNEDY

By: _____

DENNIS L. KENNEDY

KELLY B. STOUT

Attorneys for Defendant
LAS VEGAS-CLARK COUNTY
LIBRARY DISTRICT

Date: _____

WILLIAM DEANS

DocuSigned by:

By: _____
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Date: 11/14/2018

Approved as to form and content:
RANDAZZA LEGAL GROUP, PLLC

By: 

MARC J. RANDAZZA

ALEX J. SHEPARD

D. GILL SPERLEIN

Attorneys for Plaintiff
WILLIAM DEANS

Date: November 15, 2018

SECTION 20

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Each Party warrants that it has the authority to sign this Agreement, and each individual executing this Agreement on behalf of any entity specifically warrants that he or she has the authority to bind that entity by his or her signature.

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LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT WILLIAM DEANS

By: Donald P. Heinen By: _____

Title: Executive Director Date: _____

Date: November 13, 2018

Approved as to form and content:
BAILEY♦KENNEDY

By: D.L. KENNEDY

DENNIS L. KENNEDY

KELLY B. STOUT

Attorneys for Defendant
LAS VEGAS-CLARK COUNTY
LIBRARY DISTRICT

Date: 11/20/18

Approved as to form and content:
RANDAZZA LEGAL GROUP, PLLC

By: _____

MARC J. RANDAZZA

ALEX J. SHEPARD

D. GILL SPERLEIN

Attorneys for Plaintiff
WILLIAM DEANS

Date: _____