

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF IOWA

IN THE MATTER OF)	
THOUSAND ADVENTURES, INC.,)	CHAPTER 7
)	CASE NO. 97-03618-DJ
Debtor.)	
)	
ERIC W. LAM, not individually but as)	
Trustee of Thousand Adventures, Inc.)	
)	
Plaintiff,)	ADVERSARY NO. 99-99168
)	
VS.)	
)	
STUMP, STOREY & CALLAHAN, P.A.;)	
FIRST UNION CORPORATION d/b/a)	
FIRST NATIONAL BANK OF)	
FLORIDA; and WILLIAM T. PINEL,)	
)	
Defendants.)	

MOTION TO APPROVE SETTLEMENT AGREEMENT

Eric W. Lam, in his sole capacity as Chapter 7 Trustee, and not individually, through his undersigned counsel, for his motion as above captioned respectfully states:

1. In prior pleadings filed in the above-captioned adversary proceeding, the Trustee has indicated that negotiations were ongoing to compromise the claims that the Trustee has against all Defendants in this matter.

2. Pursuant to those ongoing negotiations, the Trustee has now, subject to Court approval, reached an agreement with all of the Defendants.

3. In return for the sum of \$15,500 (Stump, Storey & Callahan: \$12,000, William T. Pinel: \$2,500, First Union Corporation: \$1,000), the Trustee has agreed to dismiss this adversary action with prejudice.

4. The Trustee determined, after consultation with counsel, that this settlement would be in the best interest of the estate and should be accepted. After considering the legal merits of his claim, the difficulties in establishing the factual basis for the claim and many other factors that might affect the outcome of continued litigation, the Trustee has determined that the settlement amount offered, in the aggregate sum of \$15,500, is a reasonable sum to accept for satisfaction of the Trustee's claims arising out of this adversary proceeding. The Trustee has determined that continued litigation, in lieu of settlement, is likely to produce a net recovery for the bankruptcy estate that is less than the amount being paid pursuant to the settlement.

5. Attached hereto, marked as Exhibit "A", and incorporated by reference herein is a rough draft of the settlement agreement and release which has been prepared by counsel for Stump, Storey & Callahan, and which the parties expect to execute upon receipt of Court approval for the settlement of this matter.

6. Because the settlement of this matter provides for the dismissal of this adversary proceeding, with prejudice, the Plaintiff and all Defendants believe that it would not be wise to engage in any further pretrial procedures until the Court has determined whether this settlement should be approved.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into this ____ day of _____, 2000, by and between Eric M. Lam, as trustee of Thousand Adventures, Inc. ("Trustee"), and Stump, Storey & Callahan, P.A. ("Stump"). Trustee hereby acknowledges payment to him of the sum of Fifteen Thousand Five Hundred and no/100 Dollars (\$15,500), in consideration of which he does hereby release, acquit and forever discharge Stump, First Union Corporation, d/b/a First National Bank of Florida, and William T. Pinel, and all of their past and present directors, officers, partners, agents, representatives, shareholders, employees, and insurers ("Released Parties"), and all other persons, firms, corporations and entities from any and all liability whatsoever, including all claims, demands, and causes of action of every nature affecting the Trustee or Thousand Adventures, Inc., which either may have or ever claim to have by reason of:

- a. Any transfer of funds by or on behalf of Thousand Adventures, Inc., or any of its subsidiaries to the Released Parties or to any other person, firm, corporation or entity at any time up to the date of this Settlement Agreement and Release;
- b. Any act or doing or any failure to act by any of the Released Parties at any time up to the date of this Settlement Agreement and Release;
- C. The performance of any legal work by Stump for Thousand Adventures, Inc. or any of its subsidiaries at any time up to the date of this Settlement Agreement and Release;

- d. Any payment by Thousand Adventures, Inc. or any of its subsidiaries to any of the Released Parties, including but not limited to the payment of legal fees to Stump, at any time up to the date of this Settlement Agreement and Release;
- e. All matters asserted in or which could have been asserted in an adversary proceeding commenced in the United States Bankruptcy Court for the Southern District of Iowa by the Trustee against the Released Parties, which action is currently pending as Adversary No. 99-99168; or
- f. Any matter arising directly or indirectly out of (a)-(d) above. As further consideration

of said payment, the Trustee does hereby AGREE:

1. The liability of the Released Parties is uncertain, indefinite and incapable of being satisfactorily established, and the nature and extent of any amounts to which the Trustee may be entitled, if any, are unascertained. In order to avoid the uncertainty of trial and the expense of prolonged litigation and to settle their differences, the Trustee has agreed to a compromise settlement with the Released Parties, wherein the sum of \$15,500 is to be paid to the Trustee.

2. This Settlement Agreement and Release covers all claims and damages, whether known or not, and which may hereafter appear or develop arising from the matters referred to above.

3. The aforesaid sum of \$15,500 is all that the Trustee will receive for his claims or for the claims of Thousand Adventures, Inc. or any of its subsidiaries against the Released Parties, and no promise for any other or further consideration has been made to the Trustee by anyone.

4. This Settlement Agreement and Release is executed as a compromise settlement of a disputed claim, liability for which is expressly denied by the Released Parties and payment of the above sum does not constitute an admission of liability on the part of any person or entity.

5. Claimant is executing this Settlement Agreement and Release solely in reliance upon his own knowledge, belief and judgment and that of his attorney, Dan Childers, and not upon any representations made by the Released Parties or others in their behalf.

6. Settlement with the Trustee is specifically contingent upon the settlement between all Released Parties and Trustee. Trustee shall provide Stump with written documentation showing a final release by and between the Trustee, First Union Corporation, d/b/a. First National Bank of Florida, and William T. Pinel.

7. Settlement is contingent upon approval of the settlement by the United States Bankruptcy Court for the Southern District of Iowa. Trustee shall be responsible for taking all actions necessary to obtain bankruptcy court approval.

8. The aforesaid adversary proceeding, Adversary No. 99-99168, shall be dismissed with prejudice.

9. Trustee and the Released Parties shall be responsible for their own attorney fees, costs, and expenses, including but not limited to any expert witness fees, deposition costs and court costs.

10. Trustee agrees to execute all documents necessary to effectuate the terms and conditions of this settlement as aforesaid and to take all actions reasonably necessary to effectuate the terms and conditions of the settlement.

I HAVE READ THE FOREGOING RELEASE AND UNDERSTAND ITS TERMS AND FREELY AND VOLUNTARILY SIGN THE SAME.

CAUTION: THIS IS A RELEASE - READ BEFORE SIGNING!

ERIC W. LAM, NOT INDIVIDUALLY BUT AS
TRUSTEE OF THOUSAND ADVENTURES,
INC., PLAINTIFF

Approved as to substance and form:

Dan Childers
Elderkin & Pirnie, P.L.C.
115 First Avenue, S.E.
Cedar Rapids, IA 52401
Telephone: (319) 362-2137

ATTORNEYS FOR PLAINTIFF