



\*W2958779\*

E# 2958779 PG 1 OF 7  
LEANN H KILTS, WEBER COUNTY RECORDER  
27-DEC-18 137 PM FEE \$22.00 DEP TN  
REC FOR: HAMZA & RUBY ENTERPRISES

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is made and entered into on the dates set forth below, by and between Hamza & Ruby Enterprises LLC (hereafter "Hamza"), and Keith Kley (hereafter "Kley") (Hamza and Kley are sometimes referred to herein collectively as "Parties" or individually as "Party"). The Parties hereby represent, covenant, and agree as follows:

### SECTION I. RECITALS

- A. Whereas a dispute arose between the Parties concerning the ingress and egress to Hamza's property.
- B. Whereas Kley placed a fence (since removed) blocking the access drive located near the Southwest corner of Hamza's property;
- C. Whereas Kley places a sign to the Northeast of said access drive;
- D. Whereas a dispute arose as to whether or not Hamza was entitled to use of the access drive and whether or not the sign and/or fence were on Hamza's property;
- E. Whereas Hamza obtained a survey showing that the fence and the sign had been placed on Hamza's property;
- F. Whereas Hamza believes that he has a legal easement and/or right of way across the access drive;
- G. Whereas Hamza filed a Verified Complaint on or about September 4, 2018, and Kley subsequently filed an answer on or about November 27, 2018, and litigation has been ongoing in the Second Judicial District Court in and for Weber County, State of Utah, (the "Court"), Case No. 180905399 (the "Lawsuit"), and;

H. Whereas by entering into this Agreement, the Parties now wish to resolve all disputes between them on the terms set forth in this Agreement.

## SECTION II. PRINCIPAL TERMS

Now, therefore, in consideration of the mutual promises, covenants and warranties which appear below, and intending to be legally bound thereby, the Parties hereby agree as follows:

1. Incorporation of Recitals. The foregoing RECITALS are incorporated herein and made a part hereof.
2. Settlement. The parties agree to the following settlement terms in full and final settlement of the Lawsuit and any other and all claims, demands, rights, liabilities, and causes of action among and between the Parties, collectively and as individuals, and in any fiduciary capacity:
  - a) Kley hereby gives Hamza a Right of Way for ingress and egress, across his property, legally identified as Assessor's Parcel Number 14-031-0045;
  - b) Said right of way will be for the benefit of Hamza's property, legally identified as Assessor's Parcel Number 14-031-0002;
  - c) Said right of way is legally described as follows:
  - d) BEGINNING AT A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF PENNSYLVANIA AVENUE, SAID POINT ALSO BEING THE WEST LINE OF SAID HAMZA AND RUBY ENTERPRISES LLC PROPERTY LOCATED 1513.34 FEET SOUTH 00"46'52" WEST ALONG TH WEST LINE OF SAID SOUTHWEST QUARTER AND 1543.97 FEET NORTH 90"00'00" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 30;  
  
RUNNING THENCE SOUTH 02°21'41" WEST 36.15 FEET TO A HANSEN & ASSOCIATES REBAR AND CAP SET IN THE ASPHALT MARKING THE SOUTHWEST CORNER OF SAID HAMZA AND RUBY

ENTERPRISES LLC PROPERTY; THENCE NORTH 35°13'09" WEST 23.04 FEET TO THE NORTHWEST CORNER OF KEITH KLEY PROPERTY TAX ID NO. 14-031-0045 BEING A POINT ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE; THENCE NORTHEASTERLY TO THE LEFT ALONG THE ARC OF A 4954.24 FOOT RADIUS NON TANGENT CURVE, A DISTANCE OF 22.75 FEET, CHORD BEARS NORTH 40°31'09" EAST 22.75 FEET, HAVING A CENTRAL ANGLE OF 00°15'47" ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

- e) A copy of the easement description which identifies the area to be covered by the ROW is attached to this agreement and will be included with any order filed with the Court and/or any documents filed with the Recorder;
- f) Kley may install a sign near the rebar and cap placed in the asphalt, in the northwest portion of his property;
- g) No portion of the sign may be placed on Hamza's property, unless first agreed upon in writing;
- h) Kley may place a fence on his side of the right of way (southern side). Said fence may not interfere with the right of way discussed above, in any manner;
- i) Kley will pay for the repairs to Hamza's roadway/property within thirty (30) days of the date this agreement is signed. Hamza will approve the company, and manner of repair, prior to any repair being made;
- j) Each party shall bear their own fees and costs incurred in this matter.

3. Dismissal of Complaint, and Release of Claims. Within ten (10) business days following the recording of an order and/or right of way, Hamza will cause its attorney to execute and file a stipulation and order for dismissal of the Lawsuit with prejudice.

### SECTION III. : MISCELLANEOUS TERMS

4. Denial and Compromise. The Parties represent, acknowledge, and agree that this

Agreement is a compromise and settlement of claims and demands that are disputed, and nothing herein shall be construed as an admission of their validity.

5. Mutual Release. Subject to the terms of this Agreement, the Parties completely release, acquit and forever discharge one another, including their respective successors, assigns, agents, and attorneys, from any and all claims which in any manner relate to or arise out of the Trust, including but not limited to claims that are or could have been asserted in the Lawsuit, or in a lawsuit or lawsuits, whether known or unknown, including, without limitation, any and all claims for statutory damages, claims, demands, fines, penalties, assessments, attorneys' fees, costs, and causes of action of any kind at law or equity, which the Parties may now have, may have in the future, or have ever had, against one another through and including the date of this Agreement.

6. No Other Representations. The Parties each represent and acknowledge that, in executing this Agreement, they do not rely and have not relied upon any representation or statement made by each other (except as set forth herein), or by any agents, representatives, or attorneys of the others with regard to the subject matter, basis, or facts of this Agreement.

7. Authority. Each Party hereto represents and warrants to the other party hereto that it has the unencumbered right and full authority to surrender, compromise, settle, release, and cancel obligations, debts, or undertakings described in this Agreement.

8. Captions and Headings. The captions and headings appearing in this Agreement are for convenience only and shall in no way be deemed to define, limit, or extend the scope or intent of the paragraphs which they precede nor affect the manner in which any provision hereof is construed.

9. Construction. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all

plural words shall include the singular, as the context may require. The language of this Agreement shall be construed as a whole, according to its fair meaning and intent. This Agreement has been prepared after extensive discussions between the parties and the opportunity for each party to review the Agreement with and obtain advice from their respective legal counsel. In construing this Agreement, the fact that one party or the other may have drafted its various provisions shall not affect the interpretation of such provisions, and may not be construed against any party. Should any provision of this Agreement be held illegal or unenforceable, such illegality or unenforceability shall not invalidate the rest of this Agreement; instead the illegal/unenforceable provision(s) shall be redrafted to best meet the intent of the Agreement, or if necessary, stricken, and the balance of the Agreement enforced accordingly.

10. Integration. All understandings and agreements heretofore had or made between the parties are merged in this Agreement and the attachments hereto, which alone fully and completely express their agreement relating to the subject matter hereof. This Agreement shall not be amended or modified, except by written agreement signed by all parties hereto.

11. Approval by Attorneys. The Parties each acknowledge that they are entering into this Agreement having fully reviewed the terms hereof, and the legal effect of their signing this Agreement and the agreements appended hereto, in consultation with their respective legal counsel.

12. Successors and Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, beneficiaries, and assigns. No party to this Agreement may assign their rights or obligations hereunder without the prior written consent of the other party hereto.

13. Governing Law. This Agreement shall be governed and construed in accordance

with the laws of the State of Utah without application of any principles of choice of law.

14. Attorneys' Fees. In the event any suit is brought to enforce or interpret any of the provisions of this Agreement, in addition to any damages which may be claimed, the prevailing party shall be entitled to recover their costs and reasonable attorneys' fees incurred in connection with such action.

15. Counterparts. This Settlement Agreement may be executed in counterparts and a copy shall be deemed to have the same effect as an original.

**THE PARTIES HEREBY CERTIFY THAT THEY HAVE READ ALL OF THIS AGREEMENT AND FULLY UNDERSTAND THE SAME, AND IN WITNESS THEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATES SET FORTH.**

IN WITNESS WHEREOF, the Parties each have executed this Agreement as of the date

written below.

Hamza Khalid 12-21-18  
HAMZA & RUBY ENTERPRISES LLC Dated:

Hamza Khalid 12-21-18  
HAMZA KHALID Dated:

Keith Kley 12-21-18  
KEITH KLEY Dated:

VERIFICATION

Hamza Khalid, Manager, being first duly sworn upon oath, deposes and states that he is a party to the foregoing action, that he has read the above Settlement Agreement and Mutual Release and understands the contents, and that he agrees to be bound by his promises and covenants made therein.

DATED this 21<sup>st</sup> day of Dec, 2018.

Hamza Khalid  
Hamza Khalid, Manager of Hamza & Ruby Enterprises LLC

SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of December 2018.



Marlene Albarran  
NOTARY PUBLIC

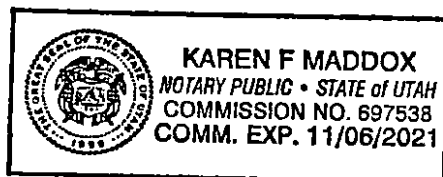
VERIFICATION

Keith Kley, being first duly sworn upon oath, deposes and states that he is a party to the foregoing action, that he has read the above Settlement Agreement and Mutual Release and understands the contents, and that he agrees to be bound by his promises and covenants made therein.

DATED this 14<sup>th</sup> day of Dec, 2018.

Keith Kley  
Keith Kley

SUBSCRIBED AND SWORN TO before me this 14<sup>th</sup> day of Dec. 2018.



Karen F Maddox  
NOTARY PUBLIC