

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN A. MALACK, MICHAEL ROSATI, VIRGIL MAGNON, S.S. RAJARAM M.D., HAYWARD PEDIATRICS, INC. AND HENRY MUNSTER,	:	
	:	
Plaintiffs,	:	Civil Action No. 08-784
	:	
vs.	:	
	:	
BDO SEIDMAN, LLP,	:	
	:	
Defendant	:	
	:	

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into this 21st day of July, 2011 by and among Plaintiffs, John A. Malack, Michael and Theresa Rosati, Henry Munster, Joseph J. Foglia, S.S. Rajaram, M.D. and Hayward Pediatrics, Inc., the Estate of Virgil Magnon, George Cassidy and Rena Johnson (“Plaintiffs”) and Defendant, BDO Seidman, LLP and BDO USA, LLP (“BDO”). Capitalized terms used herein and not otherwise defined have the meanings assigned to them in Section IV(1) hereof.

I. THE LITIGATION

In January 2005, plaintiffs Rena Johnson, George Cassidy and Joseph J. Foglia (“the Original Plaintiffs”) filed a class action lawsuit against American Business Financial Services, Inc. (“American Business”) in the Eastern District of Pennsylvania, *In Re American Business Financial Services Noteholders Litigation*, No. 02-05-cv-00232-TON (the “American Business Action”), pursuant to, *inter alia*, Section 11 of the Securities Act of 1933, 15 U.S.C.A. 77k. Original Plaintiffs filed on behalf of the

purchasers of the Notes, both collateralized and non-collateralized. Pursuant to the Private Securities Litigation Act, 15 U.S.C. 77z-1 (a)(3)(B)(i), the Court later appointed John A. Malack, Michael Rosati, S.S. Rajaram, M.D. and Hayward Pediatrics, Inc., and Virgil Magnon¹ as lead plaintiffs in the American Business Action. Henry Munster was later added as a named plaintiff in that litigation. The American Business Action has settled, and the last of the settlement fund has been dispersed.

On February 15, 2008, Plaintiffs Malack, Rosati, Rajaram, Magnon and Munster (“BDO Plaintiffs”), on behalf of a group of purchasers of Notes, filed a class action suit pursuant to, *inter alia*, Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78j Sec. 10(b), against BDO, the auditor of American Business, in the United States District Court for the Eastern District of Pennsylvania (the “Court”), captioned *Malack v. BDO Seidman, LLP*, No. 08-784-TON. The BDO Action was filed as a related case to the American Business Action.

In the BDO Action, BDO filed a motion to dismiss, which the Court denied. The BDO Plaintiffs subsequently filed a motion to certify the class, which the Court denied on August 4, 2009. The BDO Plaintiffs then appealed that ruling to the Court of Appeals for the Third Circuit pursuant to Federal Rule of Civil Procedure 23(f). The Third Circuit upheld the ruling denying class certification on August 16, 2010. Since that time, Plaintiffs and BDO have come to an Agreement of Settlement by which BDO will pay \$175,000 for discontinuance of the litigation and full and mutual releases, except Plaintiffs will not release any claims they have or may have in or arising from the American Business Bankruptcy, including with respect to any recoveries to or for the

¹ Since the settlement of the American Business Action, Virgil Magnon and his wife have died. His estate will be substituted in this Settlement.

benefit of the bankruptcy estate from any source. Nor do Plaintiffs release any claims from the Indenture Trustees, Wells Fargo, N.A., U.S. Bank, N.A. and Law Debenture Trust Company.

II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

BDO has expressly denied and continues to deny all allegations of any wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the American Business and the BDO Actions (collectively the "Actions"). BDO has also denied and continues to deny, *inter alia*, any allegations of misrepresentations, non-disclosures or otherwise in connection with the American Business Registration Statements, and denies that Plaintiffs were harmed by any conduct alleged or that could have been alleged in the BDO Action.

III. CLAIMS OF PLAINTIFFS AND BENEFITS OF SETTLEMENT

Plaintiffs allege that the Registration Statements, pursuant to which they bought their Notes, contained material misstatements and omissions by BDO about the financial condition and results of American Business. Plaintiffs allege that they were damaged when American Business failed to pay interest or principal on the Notes, and filed for bankruptcy.

Although Plaintiffs believe their allegations are sound, they have considered the risks and expense of protracted litigation, and believe it is desirable to settle the BDO Action on the terms set forth here.

IV. TERMS OF SETTLEMENT AGREEMENT

NOW THEREFORE, IT IS HEREBY AGREED, by and among Plaintiffs and BDO, by and through their undersigned counsel of record, that, without any admission or concession on the part of Plaintiffs of any lack of merit of the BDO Action, and without any admission or concession by BDO of any liability or wrongdoing or lack of merit in the defenses to the BDO Action, and in consideration of the benefits flowing to the Settling Parties from the Settlement, that BDO shall pay to Plaintiffs \$175,000, within two (2) weeks of the day on which the Court signs the Order substantially in the form attached as Exhibit A (“Effective Date”). The BDO Action and all Released Claims as against the Released Parties shall be finally and fully compromised, settled, released and dismissed with prejudice as to all Released Parties, except for any claims Plaintiffs have or may have in or arising from the American Business Bankruptcy, including with respect to any recoveries to or for the benefit of the bankruptcy estate from any sources. Nor do Plaintiffs release any claims from the Indenture Trustees, Wells Fargo, N.A., U.S. Bank, N.A. and Law Debenture Trust Company.

1. Certain Definitions

The following terms, as used in this Agreement, have the following meanings:

- 1.1. “Actions” means the BDO Action and the American Business Action.
- 1.2. “American Business Action” means *American Business Financial Services Noteholder Litig.*, No. 02-05-cv-00232-TON in the United States District Court for the Eastern District of Pennsylvania.
- 1.3. “American Business” means American Business Financial Services, Inc.

- 1.4. “American Business Bankruptcy” means *In Re American Business Financial Services, Inc.*, NO. 05-10203 (MFN) in the United States Bankruptcy Court for the District of Delaware.
- 1.5. “BDO Action” means *Malack v. BDO Seidman*, No. 2-08-cv-784-TON in the United States District Court for the Eastern District of Pennsylvania.
- 1.6. “BDO” means BDO Seidman, LLP and BDO USA, LLP.
- 1.7. “Effective Date” means the day on which the Court signs the Final Order approving the Settlement in the form of Exhibit A, or in a form substantially similar to Exhibit A, which the Settling Parties agree is adequate to approve the Settlement.
- 1.8. “Heffler” means the claims administrator for the American Business Action, Heffler, Radetich & Saitta, LLP.
- 1.9. “Notes” means subordinated debt securities, subordinated money market notes, unsecured investment notes, subordinated debentures, and senior collateralized Notes issued by American Business.
- 1.10. “Paid Amount” is \$175,000.
- 1.11. “Plaintiffs” means John A. Malack, Michael and Theresa Rosati, Henry Munster, Joseph J. Foglia, S.S. Rajaram, M.D. and Hayward Pediatrics, Inc., the Estate of Virgil Magnon, George Cassidy and Rena Johnson.
- 1.12. “Released Claims” means and includes any and all claims or causes of action, debts, costs (including court costs), attorney’s fees, suits, rights of action, matured or unmatured, contingent or non-contingent, whether or not alleged at law, in equity or otherwise, that have been or could have been asserted in or in

connection with the BDO Action against any of the Released Parties, which arise out of or relate to claims asserted in the BDO Action or any of the facts, claims, transactions, events or occurrences or matters of any kind, directly or indirectly related to the subject matter of the BDO Action, or any claims for relief which were, might have been, or could have been asserted, alleged or litigated in the BDO Action. Released Claims also include Unknown Claims, but do not include any claims that Plaintiffs have or may have in or arising from the American Business Bankruptcy, including with respect to any recoveries to or for the benefit of the bankruptcy estate from any sources. Nor do Plaintiffs release any claims from the Indenture Trustees, Wells Fargo, N.A., U.S. Bank, N.A. and Law Debenture Trust Company .

- 1.13. “Released Parties” means BDO and its partners, officers, advisors, agents, assigns, administrators, attorneys, consultants, employees, insurers, reinsurers, representatives, and any entity in which any BDO partner has a controlling interest, and Plaintiffs and their spouses, heirs, any entity in which any one of them has a controlling interest, their attorneys, consultants, and Heffler.
- 1.14. “Settlement” means the settlement embodied by this Agreement.
- 1.15. “Settlement Amount” means the principal amount of \$175,000.
- 1.16. “Settling Parties” means the Plaintiffs and BDO.
- 1.17. “Unknown Claims” means any Released Claim that any party does not know or suspect to exist in the party’s favor at the time of the release of the Released Parties and released claims, that if known by the party might have affected the party’s decision to settle and release Released Parties.

2. Settlement Agreement

- 2.1. BDO shall pay or cause to be paid to the Plaintiffs' Counsel, the sum of \$175,000 within two (2) weeks of the Effective Date.
- 2.2. The Settlement shall be without costs to either side.
- 2.3. The obligations incurred pursuant to this Agreement shall be in full and final disposition of the BDO Action and any and all Released Claims as against all Released Parties.
- 2.4. Upon the Effective Date of this Settlement, the Settling Parties shall, with respect to each and every Released Claim, release and forever discharge, and shall forever be enjoined from prosecuting, any Released Claims against any of the Released Parties.
- 2.5. If the Settlement contemplated by this Agreement is approved by the Court, counsel for the Settling Parties request that the Court enter the Final Order approving the Settlement and enter Final Judgment dismissing the Action with prejudice and without costs, substantially in the form attached hereto as Exhibit A.

3. Releases

3.1. On the Effective Date, each of the Settling Parties, fully, finally and forever release, relinquish, remise and discharge all Released Claims, against the Released Parties. However, Plaintiffs do not release any claims Plaintiffs have or may have in or arising from the American Business Bankruptcy, including with respect to any recoveries to or for the benefit of the bankruptcy estate from any sources. Nor do Plaintiffs release any claims from the Indenture Trustees, Wells Fargo, N.A., U.S. Bank, N.A. and Law Debenture Trust Company.

4. Miscellaneous Provisions

4.1. All agreements made and orders entered during the course of the BDO Action, relating to the confidentiality of information shall survive this Settlement Agreement.

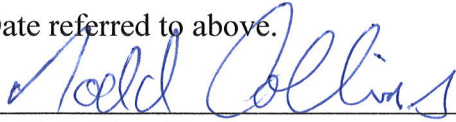
4.2. The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

4.3. The Agreement constitutes the entire agreement between the Settling Parties and no representation, warranties or inducements have been made to any party concerning the Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

4.4. The Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

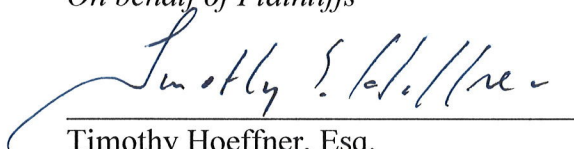
IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be executed, by themselves or their duly authorized attorneys, dated as of the Execution

Date referred to above.



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On behalf of Plaintiffs



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*On behalf of BDO Seidman, LLP, and
BDO USA, LLP*