

**AGREEMENT BETWEEN CLASS AND MICHAEL J. ROSEN AND
MICHAEL J. ROSEN P.A.**

This agreement (“Agreement”) is made by and between the Class Representatives, on their own behalf, and upon approval of the Class Action Court on behalf of Settlement Class, on the one hand, and Michael J. Rosen and Michael J. Rosen P.A. (collectively “Rosen”) on the other hand (both being referred to jointly hereinafter as the “Parties”).

RECITALS

1. On or about September 11, 2008, Anita Hunter and certain other representatives (“Hunter Class Representatives”) of a putative class (“Hunter Class”) filed an amended complaint in the action entitled *Anita Hunter, et al. v. Edward H. Okun, et al.*, Case No. 5:07-CV-02795-JW (“Hunter Class Action”) in the United States District Court of the Northern District of California.
2. On or about November 14, 2008, Quirk Infiniti, Inc. (“Quirk”), representative (“Quirk Class Representative”) of a putative class (“Quirk Class”) filed an action entitled *Quirk Infiniti, Inc. v. Wachovia Bank, National Association*, which was removed to United States District Court for the District of Massachusetts, Case No.: 1:08-cv-12060-JLT (“Quirk Class Action”).
3. On or about January 20, 2009, the Hunter Class Representatives and Gerard A. McHale, Jr. (“Trustee”), chapter 11 trustee for the estates (“Estates”) of the 1031 Debtors in the Bankruptcy Proceeding, entered into an agreement concerning the prosecution of claims by the Trustee and the Hunter Class Representatives. That agreement has been amended four times and as now or hereafter amended shall be referred to as the “Class-Trustee Agreement.”
4. On or about February 26, 2009, the Quirk Representative became a party to the Class-Trustee Agreement

5. On April 15, 2009, the MDL panel transferred the Quirk Class Action to the Court presiding over the Hunter Class Action.

6. On May 14, 2009, Hunter filed an amended complaint in an action entitled *Anita Hunter, et al. v. Citibank, N.A., et al.*, Case No. -C 09-02079 JW (“Second Hunter Class Action”) in the United States District Court of the Northern District of California, which matter has now been assigned to the Judge presiding over the Hunter Class Action.

7. On May 18, 2009, United States Bankruptcy Judge Martin Glenn of the Southern District of New York entered an order approving the Class-Trustee Agreement, and that order has now become a final order.

8. On or about March 18, 2009, Rosen and the Trustee entered into an agreement (“Bankruptcy Settlement Agreement”) that among other things settled certain claims of the Trustee against the Settling Party, and the Class Representatives and their counsel have reviewed and approved this Bankruptcy Settlement Agreement.

9. The Bankruptcy Settlement Agreement contemplates entry of an order by the Class Action Court under Rule 23 of the Federal Rules of Civil Procedure binding all of the Settlement Class and providing other relief (the “Rule 23 Order”)

10. To the extent the Bankruptcy Settlement Agreement also contemplates entry of a good faith order in the Class Action Court (“Class Action Good Faith Order,” it is defined as “an order of any court of competent jurisdiction finding the *settlement of the Class Action* [as defined in the Bankruptcy Settlement Agreement] to be in good faith pursuant to California Code of Civil Procedure § 877.6 or, to the extent the Class Action [as defined in the Bankruptcy Settlement Agreement] is transferred to or filed in another state, pursuant to an equivalent provision, if any, of applicable law” (emphasis added).

11. The Parties to this Agreement believe that the Bankruptcy Settlement Agreement and the Class-Trustee Agreement, taken together, provide a basis for the Class Action Court to approve the settlement of this action under Rule 23 of the Federal Rules of Civil Procedure. The parties to this Agreement further believe that the Bankruptcy Settlement Agreement and the Class-Trustee Agreement, taken-together constitute the “settlement of the Class Action” as that phrase is used in the definition of the Class Action Good Faith Order in the Bankruptcy Settlement Agreement. Accordingly, the Parties are entering into this Agreement in conjunction with the Bankruptcy Settlement Agreement and the Class-Trustee Agreement, in order to provide the Class Action Court with a basis upon which to approve the settlement of this action and to enter the Rule 23 Order and the Class Action Good Faith Order contemplated in the Bankruptcy Settlement Agreement.

AGREEMENT

1. Definitions.

- A. The definitions below apply to capitalized terms wherever those terms appear in this Agreement, including the prefatory paragraph and recitals above, this Section 1, the sections below, and any exhibits hereto. If capitalized terms in the prefatory and recitals above, the sections below, and any exhibits hereto, are not defined in this Section 1, they have the meanings ascribed to them as set forth in the relevant sections of the Agreement. Each defined term stated in the singular shall include the plural and each defined term stated in the plural shall include the singular. The word “including” means “including but not limited to.” The word “herein” means the entirety of the Agreement, including any exhibits hereto.
- B. “1031 Debtors” means The 1031 Tax Group, LLC; 1031 Advance 132 LLC; 1031 Advance, Inc.; 1031 TG Oak Harbor LLC; Atlantic Exchange Company, Inc.; Atlantic Exchange Company LLC; Investment Exchange Group, LLC; National Exchange Accommodators, LLC; National Exchange Services QI, Ltd.; NRC 1031, LLC; Real Estate Exchange Services, Inc.; Rutherford Investment LLC; Security 1031 Services, LLC; Shamrock Holdings Group, LLC; and AEC Exchange Company, LLC.

- C. “Bankruptcy Proceeding” means *In Re The 1031 Tax Group, LLC*, Case No. 07-11448-MG in the United States Bankruptcy Court for the Southern District of New York, as well as all other bankruptcy proceedings jointly administered with that case.
- D. “Class Action” means the Hunter Class Action, the Quirk Class Action, and the Second Hunter Class Action.
- E. “Class Action Court” means any court where the Class Action is pending.
- F. “Class Action Good Faith Order” has the meaning set forth in the Bankruptcy Settlement Agreement.
- G. “Class” means the Hunter Class and the Quirk Class.
- H. “Class Representatives” means the Hunter Class Representatives and the Quirk Class Representative.
- I. “Settlement Class” means “All persons who were customers of 1031 Advance 132 LLC, 1031 Advance, Inc., 1031 TG Oak Harbor, LLC, AEC Exchange Company, LLC, Atlantic Exchange Company, Inc., Atlantic Exchange Company, LLC, Investment Exchange Group, LLC, National Exchange Accommodators LLC, National Exchange Services QI, Ltd., NRC 1031 LLC, Real Estate Exchange Services, Inc., Rutherford Investment, LLC, Security 1031 Services, LLC, Shamrock Holdings Group, LLC, and/or The 1031 Tax Group, LLC, including any subsidiaries or affiliates of any of those entities engaged in business as Qualified Intermediaries pursuant to 26 U.S.C. § 1031, and who suffered loss or damages or allegedly suffered loss or damages in any way, directly or indirectly, related to or arising out of (a) the failure of any of the entities listed above, including their subsidiaries or affiliates, (b) any of the events, acts or conduct alleged in the First Amended Complaint in the Action entitled 'Anita Hunter, et al. v. Edward Okun, et al.', United States District Court for the Northern District of California, Case No. C 07-02795 JW , (c) any of the events, acts or conduct alleged in the Complaint in the Action entitled 'Quirk Infiniti, Inc. v. Wachovia Bank, N.A.', United States District Court for the District of Massachusetts, Case No. 1:08-12060"; or (d) any of the events, acts or conduct alleged in the Complaint in the Action entitled 'Anita Hunter, et al. v. Citibank, N.A., et al.', United States District Court for the Northern District of California, Case No. C 09-02079 JW.”
- J. “Rosen” means Michael J. Rosen and Michael J. Rosen P.A.

2. Parties.

The parties to this Settlement Agreement (“Agreement”) are:

- A. Rosen.
- B. Upon approval by the Class Action Court, the Settlement Class.
- C. The Class Representatives. The Class Representatives are also members of the Settlement Class.

3. The Parties hereby confirm their agreement that:

- A. The Bankruptcy Settlement Agreement and the Class-Trustee Agreement, taken together, provide a basis for the Class Action Court to approve the settlement of this action under Rule 23 of the Federal Rules of Civil Procedure, and also that these agreements, and any amendments to which the Parties agree, taken together, constitute the “settlement of the Class Action” as that phrase is used in the definition of the Class Action Good Faith Order in the Bankruptcy Settlement Agreement; and
- B. Any requirement in the Bankruptcy Settlement Agreement that a court of competent jurisdiction enter a Class Action Good Faith Order with respect to the “settlement of the Class Action,” as that phrase is used in the Bankruptcy Settlement Agreement, shall be satisfied by the Class Action Court entering the Class Action Good Faith Order as to either (i) this Agreement, or (ii) the Bankruptcy Settlement Agreement and the Class-Trustee Agreement, or (iii) both; and
- C. The Class Representatives are bound by the terms of the Bankruptcy Settlement Agreement; and
- D. Nothing herein is intended to or shall modify the terms or conditions of the Bankruptcy Settlement Agreement. To the extent that this Agreement and the Bankruptcy Settlement Agreement may differ or may be inconsistent on any issue, the terms of the Bankruptcy Settlement Agreement shall govern this Agreement as well; and this Agreement is not intended to and shall not impose any more stringent conditions or limitations on Rosen’s payment or other obligations than are contained in the Bankruptcy Settlement Agreement.

4. Payment By Rosen

- A. Rosen shall pay the amounts specified in the Bankruptcy Settlement Agreement in full (“Settlement Payment”) pursuant to the terms and conditions therein.

- B. Nothing in this Agreement shall obligate Rosen to make any payment not required of it in the Bankruptcy Settlement Agreement.
 - C. The payment to the Trustee pursuant to the Bankruptcy Settlement Agreement shall be deemed to benefit the Settlement Class without regard to any future orders of any court of competent jurisdiction regarding the distribution or utilization of the funds paid to the Trustee and without regard to any actions of the Trustee in the use or distribution of those funds.
5. Release and Disclaimer
- A. The Bankruptcy Settlement Agreement contemplates, and the Parties agree, that the Rule 23 Order is intended to be and will be the Class Action Bar Order defined in the Bankruptcy Settlement Agreement.
 - B. Upon approval of this Agreement by the Class Action Court, each member of the Settlement Class acknowledges that he, she, or it may hereafter discover facts in addition to or different from those he, she, or it now believes is true. Each Class Representative and each member of the Settlement Class acknowledge that he, she, or it has taken these possibilities into account in entering this Agreement and each expressly assumes the risk of them in entering this Agreement. Further, this Agreement shall remain in effect notwithstanding the discovery or existence of such additional or different facts.
 - C. Upon approval of this Agreement of the Class Action Court, the Settling Party acknowledges that he, she, or it may hereafter discover facts in addition to or different from those he, she, or it now believes is true. The Settling Party acknowledge that he, she, or it has taken these possibilities into account in entering this Agreement and each expressly assumes the risk of them in entering this Agreement. Further, this Agreement shall remain in effect notwithstanding the discovery or existence of such additional or different facts.
 - D. The Parties each waive the benefit and protection of Section 1542 of the Civil Code of the State of California (“Section 1542”) and similar provisions of the laws of other jurisdictions to the extent otherwise applicable. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known to him or her must have materially affected his or her settlement with the debtor.

- E. Provided that the Trustee is entitled to receive and retain with finality the Settlement Payment pursuant to the Bankruptcy Settlement Agreement and this Agreement, any releases binding the Settlement Class shall be effective pursuant to the terms of such releases regardless of whether the Trustee has disbursed any portion of the payment to any particular member of the Settlement Class.
6. The Settlement Class, through its attorneys, shall file a motion with the court hearing the Hunter Class Action requesting preliminary approval of this Agreement and certification of the Settlement Class, and shall also file a motion requesting a final order approving this Agreement and enforcing its terms, and give notice to the members of the Settlement Class, pursuant the Class Action Fairness Act and Rule 23, F.R.Civ.P. Rosen shall cooperate with the actions of the Settlement Class described in this Paragraph 6.
7. No Admission of Liability.
- A. Neither the fact of this Agreement nor the Settlement Payment is an admission of any type by any of the Parties. It is understood that Rosen explicitly denies all liability to the Settlement Class. This Agreement represents a compromise of disputed claims.
- B. The Parties agree that none of the motions (including those provided for in Paragraph 6 above), statements, correspondence, or arguments of any of the Parties or any other person or entity offered or created in connection with this Agreement or the negotiations leading up to it constitute an admission of fault, responsibility, wrongdoing, liability, or anything else on the part of any Party or other person or entity for purposes of any action or suit or otherwise.
- C. Nothing in this Paragraph 7 is intended to affect the rights of the Parties to this Agreement to enforce this Agreement.
8. General Provisions.
- A. This Agreement shall be governed by California law without giving effect to its choice of law principles.
- B. Any dispute relating solely to the enforcement of this Agreement shall be resolved before the United States District Court for the Northern District of California, or such other district to which the Class Action may have been transferred.
- C. Any administrative costs relating to this Agreement, including any costs of notice and distribution of any funds to members of the Settlement Class and any income tax or other tax liabilities resulting from the Settlement Payments, shall be borne by the Settlement Class and/or the

Trustee in such proportions as they may agree or as a court may order in the future.

- D. Any attorneys' fees or costs of suit to which counsel for the Settlement Class may be entitled shall be paid out of the Settlement Payment. Except for its Settlement Payment, Rosen shall have no obligation to make any payment for attorneys' fees, costs of suit, or administrative costs relating to this Agreement incurred by any other party or any member of the Settlement Class. Each Party shall bear its own attorneys fees and costs.
- E. This Agreement may only be modified by a written instrument signed by all Parties whose rights or obligations are affected by the modification.
- F. This Agreement shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Parties.
- G. Each person signing below on behalf of any of the Parties represents and warrants that he or she has full authority to do so. Any person signing pursuant to a Power of Attorney must attach the Power of Attorney to this Agreement.
- H. This Agreement may be executed in counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Facsimile signatures shall be deemed to have the same effect as originals.

Signatures on Following Page

DATED: _____

ANITA HUNTER, on behalf of herself and on behalf of the Settlement Class for which she serves as representative.

DATED: _____

409 SHERMAN AVE., LLC

By _____

Its _____

DATED: _____

JOHNNA BOZZA

DATED: _____

ROBERT J. BUONO

DATED: _____

CELLTEX SITE SERVICES, LTD

By _____

Its _____

DATED: _____

GRANDE INVESTMENT, LLC.

By _____

Its _____

QUIRK INFINITI, INC., ON BEHALF OF THE QUIRK REPRESENTATIVE

By: _____

Its _____

MICHAEL J. ROSEN

Date: _____

MICHAEL J. ROSEN P.A.

By:

MICHAEL J. ROSEN

Date: _____