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Counsel to the Debtors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____)	
In re)	Chapter 11
)	
Doral Financial Corporation, et al., ¹)	Case No. 15-10573 (SCC)
)	
Debtors.)	(Jointly Administered)
_____)	

NOTICE OF PRESENTMENT OF MOTION TO APPROVE STIPULATION REGARDING PROOFS OF CLAIM WITH WILMINGTON SAVINGS FUND SOCIETY, FSB, AND U.S. BANK, NA

PLEASE TAKE NOTICE that upon the annexed motion of the above-captioned debtors and debtors in possession (the “Debtors”), the undersigned will present the attached proposed stipulation and order (the “Stipulation”) to the Honorable Shelley C. Chapman, United States Bankruptcy Judge, for signature on **June 16, 2016 at 12:00 p.m. (ET)**.

¹ The last four digits of the taxpayer identification number of the Debtors are: Doral Financial Corporation (2162); Doral Properties, Inc. (2283).

PLEASE TAKE FURTHER NOTICE that unless a written objection to the proposed Stipulation, with proof of service, is filed with the Clerk of the Court and a courtesy copy is delivered to the Bankruptcy Judge's chambers by **11:00 a.m. (ET) on the date of presentment**, there will not be a hearing and the order may be signed.

PLEASE TAKE FURTHER NOTICE that if a written objection is timely filed, the Court will notify the moving and objecting parties of the date and time of the hearing and of the moving party's obligation to notify all other parties entitled to receive notice. The moving and objection parties are required to attend the hearing, and failure to attend in person or by counsel may result in relief being granted or denied upon default.

PLEASE TAKE FURTHER NOTICE that the ECF docket number to which the filing relates shall be included in the upper right hand corner of the caption of all objections.

Dated: May 26, 2015
New York, New York

/s/ James A. Wright III
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UNITED STATES BANKRUPTCY COURT
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In re)	Chapter 11
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Doral Financial Corporation, et al., ²)	Case No. 15-10573 (SCC)
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Debtors.)	(Jointly Administered)
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MOTION TO APPROVE STIPULATION REGARDING PROOFS OF CLAIM WITH WILMINGTON SAVINGS FUND SOCIETY, FSB, AND U.S. BANK, NA

The debtors and debtors-in-possession in the above-captioned cases (the “Debtors”) submit this motion (the “Motion”) for approval under Fed. R. Bankr. P. 9019 of a proposed stipulation and order (the “Stipulation”), attached as Exhibit A, regarding proofs of claim between Doral Financial Corporation (“DFC”), Wilmington Savings Fund Society, FSB, in its capacity as trustee (solely in such capacity, “WSFS”) under the CT Trust Agreements (as defined

² The last four digits of the taxpayer identification number of the Debtors are: Doral Financial Corporation (2162); Doral Properties, Inc. (2283).

below), and U.S. Bank, NA, in its capacity as indenture trustee (solely in such capacity, “U.S. Bank”) for the DFC Notes Indenture (as defined below). In support of the Motion, the Debtors respectfully represent:

Jurisdiction

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are sections 105(a) and 502 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

A. General Background

2. On March 11, 2015 (the “Petition Date”), DFC filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code. On November 25, 2015, Doral Properties, Inc. filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code. Sections 1107(a) and 1108 of the Bankruptcy Code authorize the Debtors to continue to operate their businesses and manage their properties as debtors in possession. No request for the appointment of a trustee or examiner has been made in this chapter 11 case. An official committee of unsecured creditors (the “Committee”) was appointed on March 23, 2015.

3. A summary of the Debtors’ businesses, the Debtors’ capital structure, and the events leading to these chapter 11 cases are set forth in the *Declaration of Carol Flaton in Support of First Day Motions* [Docket No. 8] (the “Flaton Declaration”).

B. The DFC Notes, the CT Notes, and the Duplicative Proofs of Claim

4. DFC and U.S. Bank (as successor to Bankers Trust Company) are parties to a Senior Debt Securities Indenture, dated as of May 4, 1999 (the “DFC Notes Indenture”),

pursuant to which DFC issued a \$100 million 7.65% Senior Note due 2016, a \$40 million 7.1 Senior Note due 2017, and a \$30 million 7.15% Senior Note due 2022 (collectively, the “DFC Notes”).

5. At the same time each DFC Note was issued, the Puerto Rico Conservation Trust Fund (the “CT Fund”), a charitable trust organized under the laws of Puerto Rico, issued publicly-held secured notes with respect to each such DFC Note (the “CT Notes”). The CT Notes were issued under two Trust Agreements (the “CT Trust Agreements”) between the CT Fund and Banco Popular de Puerto Rico, as trustee. WSFS is the successor trustee for the CT Notes. In addition to unpaid interest and other charges, the principal amounts of the CT Notes that remain outstanding are: \$100 million in 6.5% Secured Notes due 2016, \$40 million in 6.2% Secured Notes due 2017, and \$30 million in 6.25% Secured Notes due 2022. Each issuance of CT Notes is payable solely from and secured by a pledge of a respective DFC Note in the same principal amount. As a result, under this structure, the economic benefit of each DFC Note passes through to a respective issuance of CT Notes.

6. WSFS timely filed a proof of claim against DFC, claim number 46, with respect to DFC’s liability under the DFC Notes (such claim, “Claim 46”). U.S. Bank also timely filed a proof of claim against DFC, claim number 31, with respect to DFC’s liability under the DFC Notes (such claim, “Claim 31”).

C. The Plan, the Omnibus Claims Objection, and the Proposed Settlement

7. On April 28, 2016, the Debtor filed the *Plan of Reorganization Proposed by Doral Financial Corporation and the Official Committee of Unsecured Creditors of Doral Financial Corporation* (Docket No. 581) (the “Proposed Plan”). Among other things, the Proposed Plan provides in Section 4.02(b)(i) for the allowance of a general unsecured claim for

the principal and interest due under each DFC Note and provides in Section 4.02(b)(iii) for an increase to such claim for certain fees and expenses.

8. On May 6, 2016, DFC filed *Doral Financial Corporation's First Omnibus Objection to Certain Proofs of Claim* (Docket No. 595) (the "Claims Objection"), which objected to Claim 46 (filed by WSFS) as being duplicative of Claim 31 (filed by U.S. Bank).

9. Following informal responses from WSFS to the Claims Objection, DFC, WSFS, and U.S. Bank entered into arm's-length, good faith negotiations regarding a stipulation to allow claims for the DFC Notes, in the amounts set forth for allowance in the Proposed Plan, as a resolution of disputes regarding the Claims Objection. These discussions resulted in this Motion and the proposed Stipulation attached as Exhibit A.

Relief Requested

10. DFC requests that the Court approve the proposed Stipulation under Bankruptcy Rule 9019.

11. The Stipulation provides for the allowance of Claim 31 (filed by U.S. Bank) for the DFC Notes as a general unsecured claim against the Debtor with respect to principal and interest as of the Petition Date as follows:

<u>DFC Note</u>	<u>Allowed Claim Amount</u>
7.65% DFC Note due 2016	\$100,956,250.00
7.10% DFC Note due 2017	\$40,355,000.00
7.15% DFC Note due 2022	\$30,268,125.00

Section 4.02(b)(i) of the Proposed Plan provides for the allowance of a general unsecured claim for the DFC Notes in the same amounts.

12. Consistent with Section 4.02(b)(iii) of the Proposed Plan, the Stipulation reserves rights with respect to claims for fees and expenses related to the DFC Notes or the DFC Notes Indenture.

13. Finally, the Stipulation provides for Claim 46 (filed by WSFS) to be withdrawn and expunged, thereby eliminating the issue of the duplicative claims for the DFC Notes on the claims register.

Basis for Relief

14. Bankruptcy Rule 9019(a) permits a debtor-in-possession to compromise claims, subject to bankruptcy court approval. Fed. R. Bankr. P. 9019(a). The legal standard for determining the propriety of a bankruptcy compromise is whether the settlement is in the “best interests of the estate.” In re Purofied Down Prods. Corp., 150 B.R. 519, 523 (S.D.N.Y. 1993). The United States Supreme Court has noted that “[c]ompromises are a ‘normal part of the process of reorganization.’” Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424 (1968) (citation omitted). The decision to approve a particular compromise lies within the sound discretion of the bankruptcy court. Nellis v. Shugrue, 165 B.R. 115, 123 (S.D.N.Y. 1994). In exercising its discretion, the bankruptcy court must make an independent determination that the settlement is fair and equitable. Id. at 122. The bankruptcy court may consider the opinions of the debtor-in-possession and its counsel that the settlement is fair and equitable. Id.; see also In re Purofied Down Prods. Corp., 150 B.R. at 522. The bankruptcy court’s discretion should be exercised “in light of the general public policy favoring settlements.” In re Hibbard Brown & Co., Inc., 217 B.R. 41, 46 (S.D.N.Y. 1998); Shugrue, 165 B.R. at 123 (“[T]he general rule [is] that settlements are favored and, in fact, encouraged”).

15. To approve a proposed compromise, a bankruptcy court is not required to decide numerous issues of law and fact raised by the settlement, but rather should “canvass the issues and see whether the settlement ‘fall[s] below the lowest point in the range of reasonableness.’” Finkelstein v. W. T. Grant Co. (In re W.T. Grant Co.), 699 F.2d 599, 608 (2d Cir. 1983) (citing Newman v. Stein, 464 F.2d 689, 693 (2d Cir. 1972)); see also In re Purofied Down Prods. Corp., 150 B.R. at 522 (“the court need not conduct a ‘mini-trial’ to determine the merits of the underlying [dispute]”). In deciding whether a particular settlement falls above the “lowest point in the range of reasonableness,” courts consider the following Iridium factors:

- a. “the balance between the litigation’s possibility of success and the settlement’s future benefits;
- b. the likelihood of complex and protracted litigation, ‘with its attendant expense, inconvenience, and delay’;
- c. the paramount interests of creditors;
- d. whether other parties in interest support the settlement;
- e. the ‘competency and experience of counsel’ supporting, and ‘[t]he experience and knowledge of the bankruptcy court judge’ reviewing, the settlement;
- f. the nature and breadth of releases to be obtained by officers and directors; and
- g. the extent to which the settlement is the product of arm’s length bargaining.”

Motorola, Inc. v. Official Comm. of Unsecured Creditors (In re Iridium Operating LLC), 478 F.3d 452, 462 (2d Cir. 2007) (quoting In re WorldCom, Inc., 347 B.R. 123, 137 (Bankr. S.D.N.Y. 2006)).

16. The Debtors submit that the settlement embodied in the proposed Stipulation easily satisfies the Bankruptcy Rule 9019 standard. The settlement resolves the duplicative claims filed by WSFS and U.S. Bank regarding the DFC Notes, thereby avoiding the costs of

litigating the Claims Objection. To accomplish this result, the settlement allows, as a general unsecured claim, a claim for the principal and interest due on the DFC Notes on the Petition Date. The Debtors have reviewed the DFC Notes and do not believe they have any basis to contest such a claim under Bankruptcy Code section 502 or otherwise. As noted above, the Proposed Plan, filed in late April, which is a joint chapter 11 plan by DFC and the Committee, expressly provides for the allowance of a general unsecured claim for the DFC Notes in the same amounts set forth in the proposed Stipulation. The allowance proposed in the Stipulation therefore simply advances the timing on a claims allowance that was already contemplated in the Proposed Plan.

17. For the foregoing reasons, the Debtors respectfully request that the Court approve the proposed Stipulation pursuant to Bankruptcy Rule 9019.

Notice

18. Notice of this Motion has been provided to the Master Service List provided for in the *Order Establishing Certain Notice, Case Management, and Administrative Procedures and Omnibus Hearing Dates* [Dkt. No. 74]. In light of the nature of the relief requested, the Debtors submit that no other or further notice is necessary.

WHEREFORE, the Debtors respectfully request that the Court approve the proposed Stipulation and grant such other and further relief as may be just or proper.

Dated: May 26, 2016
New York, New York

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Counsel to the Debtors

Exhibit A

Proposed Stipulation and Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	: Chapter 11
	: :
Doral Financial Corporation, et al., ¹	: Case No. 15-10573 (SCC)
	: :
Debtors.	: (Jointly Administered)
-----X	

**STIPULATION REGARDING PROOFS OF CLAIM
WITH WILMINGTON SAVINGS FUND SOCIETY, FSB, AND U.S. BANK, NA**

This Stipulation (the “Stipulation”) is entered into on the date hereof by and between Doral Financial Corporation (the “Debtor”), Wilmington Savings Fund Society, FSB (“WSFS”), in its capacity as trustee under the CT Trust Agreements (as defined below), and U.S. Bank, NA, in its capacity as indenture trustee (solely in such capacity, “U.S. Bank”) for the DFC Notes Indenture (as defined below).

RECITALS

WHEREAS, on March 11, 2015 (the “Petition Date”), the Debtor filed a petition under chapter 11 of the Bankruptcy Code commencing the above-captioned case in the United States Bankruptcy Court for the Southern District of New York (the “Court”);

WHEREAS, the Debtor and U.S. Bank (as successor to Bankers Trust Company) are parties to the Senior Debt Securities Indenture, dated as of May 4, 1999 (the “DFC Notes Indenture”), pursuant to which the Debtor issued a \$100 million 7.65% Senior Note due 2016, a \$40 million 7.1 Senior Note due 2017, and a \$30 million 7.15% Senior Note due 2022 (collectively, the “DFC Notes”);

¹ The last four digits of the taxpayer identification number of the Debtors are: Doral Financial Corporation (2162); Doral Properties, Inc. (2283).

WHEREAS, the Puerto Rico Conservation Trust Fund (the “CT Fund”) and WSFS (as successor to Banco Popular de Puerto Rico) are parties to a Trust Agreement, dated March 30, 2001, and a Trust Agreement, dated April 10, 2002 (collectively, the “CT Trust Agreements”), pursuant to which the CT Fund issued \$100 million in 6.5% Secured Notes due 2016, \$40 million in 6.2% Secured Notes due 2017, and \$30 million in 6.25% Secured Notes due 2022 (the collectively, “CT Notes”);

WHEREAS, each series of CT Notes is payable solely from and secured by a pledge of the respective DFC Note with the same original principal amount;

WHEREAS, WSFS timely filed a proof of claim, claim number 46, with respect to DFC’s liability under the DFC Notes (such claim, “Claim 46”);

WHEREAS, U.S. Bank timely filed a proof of claim, claim number 31, with respect to DFC’s liability under the DFC Notes (such claim, “Claim 31”);

WHEREAS, on April 28, 2016, the Debtor filed the *Plan of Reorganization Proposed by Doral Financial Corporation and the Official Committee of Unsecured Creditors of Doral Financial Corporation* (Docket No. 581) (the “Proposed Plan”), which provides in Section 4.02(b)(i) for the allowance of general unsecured claims for the principal and interest due under each DFC Note and provides in Section 4.02(b)(iii) for an increase to such claims for certain fees and expenses;

WHEREAS, on May 6, 2016, the Debtor filed *Doral Financial Corporation’s First Omnibus Objection to Certain Proofs of Claim*, which objected to Claim 46 as being duplicative of Claim 31;

WHEREAS, after good faith, arm’s-length negotiations, the Debtor, WSFS, and U.S. Bank (each, a “Party,” and together, the “Parties”) have agreed to this Stipulation.

NOW, THEREFORE, in consideration of the mutual covenants set forth below, IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES HERETO THAT:

STIPULATION

1. The Recitals set forth above form an integral part of this Stipulation and are incorporated fully herein.

2. Upon the approval of this Stipulation by the Court, Claim 31 shall be allowed as a general unsecured claim against the Debtor with respect to the principal and interest (as of the Petition Date) for the DFC Notes as follows:

<u>DFC Note</u>	<u>Allowed Claim Amount</u>
7.65% DFC Note due 2016	\$100,956,250.00
7.10% DFC Note due 2017	\$40,355,000.00
7.15% DFC Note due 2022	\$30,268,125.00

3. Upon the approval of this Stipulation by the Court, Claim 46 shall be deemed withdrawn and expunged.

4. All rights of WSFS and U.S. Bank with respect to claims for fees and expenses relating to the DFC Notes or the DFC Notes Indenture are hereby reserved.

5. By authorizing counsel to execute this Stipulation on its behalf, each Party hereto represents and warrants to each other Party that he or she is authorized to execute this Stipulation in his or her representative capacity with binding effect, subject in the case of the Debtor to subsequent approval by the Court.

6. This Stipulation shall be binding upon and inure solely to the benefit of the Parties hereto and their respective successors and assigns.

7. No amendment, waiver, or modification of any provision of this Stipulation shall be effective unless the same shall be in writing and signed by the Parties.

8. The Bankruptcy Court shall have jurisdiction to interpret and enforce this Stipulation and the Parties consent to the jurisdiction of the Bankruptcy Court with respect to the interpretation and enforcement of this Stipulation.

Dated: May 26, 2016

ROPES & GRAY LLP

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Counsel to the U.S. Bank, NA, as Indenture Trustee

SO ORDERED:

Date: _____, 2016

HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE