



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TSEMACH MISHAL and PAUL BERGER,)
on behalf of themselves and similarly situated)
BOARDWALK PIPELINE PARTNERS, LP)
UNITHOLDERS,)

Plaintiffs,)

C.A. No. 2018-0372-JTL

v.)

BOARDWALK PIPELINE PARTNERS, LP,)
BOARDWALK PIPELINES HOLDING)
CORP., BOARDWALK GP, LP, AND)
BOARDWALK GP, LLC,)

Defendants.)

**STIPULATION AND AGREEMENT OF
COMPROMISE AND SETTLEMENT**

This Stipulation and Agreement of Compromise and Settlement (the “Stipulation”), dated June 25, 2018, is entered into by and among the following parties in the above-captioned action (“Action”): (i) plaintiffs Tsemach Mishal and Paul Berger (together, “Plaintiffs”), on their own behalf and on behalf of the Class (as defined herein); (ii) defendant Boardwalk Pipeline Partners, LP (the “Partnership”); (iii) defendant Boardwalk GP, LP (“Boardwalk GP”); (iv) defendant Boardwalk GP, LLC (“GPLLC”); and (v) defendant Boardwalk Pipelines Holding Corp. (“BPHC” and, with the Partnership, Boardwalk GP and GPLLC, “Defendants”).

This Stipulation states all of the terms of the Settlement and, subject to the terms and conditions set forth below, is intended by Plaintiffs and Defendants to fully, finally and forever release, resolve, remise, compromise, settle and discharge the Released Plaintiffs' Claims as against the Released Defendant Parties and the Released Defendants' Claims as against the Released Plaintiff Parties, subject to the approval of the Court of Chancery of the State of Delaware (the "Court").

All terms herein with initial capitalization shall, unless defined in Paragraph 1 below or elsewhere in this Stipulation, have the meanings ascribed to them in the Third Amended and Restated Agreement of Limited Partnership of Boardwalk Pipeline Partners, LP, dated as of June 17, 2008, as amended (the "Partnership Agreement").

WHEREAS:

- A. The Partnership is governed by the Partnership Agreement.
- B. Section 15.1(b) of the Partnership Agreement gives Boardwalk GP the option to purchase all the common units of the Partnership held by persons or entities other than Boardwalk GP and its Affiliates if (1) Boardwalk GP and its Affiliates hold more than 50% of the common units then outstanding and (2) Boardwalk GP receives an Opinion of Counsel that the Partnership's status as an association not taxable as a corporation and not otherwise subject to an entity-level tax for federal, state or local income tax purposes has or will reasonably likely in

the future have a material adverse effect on the maximum applicable rate that can be charged to customers by subsidiaries of the Partnership that are regulated interstate natural gas pipelines.

C. Under Section 15.1(b) of the Partnership Agreement, Boardwalk GP may exercise its right to purchase the common units that it and its Affiliates do not already own within 90 days of receipt of such Opinion of Counsel. The Partnership Agreement does not expressly provide a date certain by which Boardwalk GP must request or receive such an opinion.

D. Section 15.1(b) of the Partnership Agreement provides that if Boardwalk GP exercises such option, the per unit purchase price shall equal “the average of the daily Closing Prices per Limited Partner Interest of such class for the 180 consecutive Trading Days immediately prior to the date three days prior to the date that the notice described in Section 15.1(c) is mailed.” The Partnership Agreement imposes no date certain for the mailing of notice of the election, except that it must be no less than ten days and no more than 60 days before the Purchase Date.

E. Boardwalk GP and its Affiliates own more than 50% of the common units.

F. On March 15, 2018, the Federal Energy Regulatory Commission (“FERC”) issued its Revised Policy Statement on Treatment of Income Taxes (the

“FERC Revised Policy Statement”) to the effect that regulated interstate pipelines owned or operated by master limited partnerships (“MLPs”) will no longer be allowed to recover an income tax allowance in the cost of service that is used to determine the maximum applicable rates that regulated interstate pipeline operators may charge their customers. MLPs are partnerships that historically have been not taxable as a corporation and not otherwise subject to an entity-level tax for federal, state or local income tax purposes.

G. The FERC Revised Policy Statement and Boardwalk GP’s and its Affiliates’ greater than 50% ownership of the common units together establish the predicates for Boardwalk GP to request an Opinion of Counsel and exercise its option to purchase the common units held by persons or entities other than Boardwalk GP and its Affiliates pursuant to Section 15.1(b) of the Partnership Agreement.

H. On March 19, 2018, the Partnership issued a press release stating that “based on a preliminary assessment, [it] does not expect FERC’s proposed policy revisions to have a material impact” on the Partnership’s revenues. The Partnership explained that “[a]ll of the firm contracts on Boardwalk’s Gulf Crossing Pipeline and the majority of contracts on Texas Gas Transmission are negotiated or discounted rate agreements, which are not ordinarily affected by FERC’s policy revisions.”

I. On April 30, 2018, the Partnership disclosed in its Quarterly Report on Form 10-Q the issuance of the FERC Revised Policy Statement and certain related matters, and certain of their implications, including that BPHC had advised the Partnership that Boardwalk GP was analyzing the FERC's recent actions and seriously considering its purchase right under the Partnership Agreement. Also on April 30, 2018, BPHC amended its Schedule 13D to indicate that Boardwalk GP was analyzing the FERC's recent actions and seriously considering its purchase right under the Partnership Agreement.

J. Also on April 30, 2018, a representative of Loews Corporation, an Affiliate of Boardwalk GP, stated that a decision whether or not to exercise the Call was expected to be made sometime in 2018 and that no decision had yet been made.

K. On May 25, 2018, Plaintiffs filed their verified class action complaint (the "Complaint") alleging that the April 30 disclosures "effectively capped the unit price" because investors would not rationally pay more for a unit than the trailing 180-trading day average, given that Boardwalk GP could exercise the Call at that trailing average price.

L. Plaintiffs asserted that the Partnership Agreement provides for calculating the purchase price of the Call using the 180 consecutive trading days ending on the date prior to three days prior to the mailing of the notice in order to

ensure that unitholders would receive a price unaffected by the announcement of the exercise of the Call.

M. According to Plaintiffs, holders of common units were and are continually harmed by Boardwalk GP's delay in exercising the Call because relatively higher closing prices during trading days at the beginning of the 180-day trading period were and are, with each passing day, being excluded from the calculation and replaced with significantly lower prices following the April 30 disclosures.

N. Plaintiffs claim that if the downward trend continues, unitholders would receive a price for their common units lower than the price that Plaintiffs claim they would have received had Defendants not made the disclosures that were made on April 30. Plaintiffs further allege that Boardwalk GP created a "death spiral" dynamic on the unit price, causing "downward pressure on the stock" in order to "depress the unit price" prior to an exercising of the Call, which Plaintiffs assert breached the Partnership Agreement or, alternatively, the implied covenant of good faith and fair dealing implied into every contract under Delaware law.

O. Under this theory of liability, Plaintiffs asserted causes of action for (i) a declaratory judgment, (ii) breach of contract, (iii) breach of the implied covenant of good faith and fair dealing, and (iv) tortious interference.

P. Defendants dispute Plaintiffs' claims on the grounds that, among other reasons, the April 30 disclosures did not breach any express or implied term of the Partnership Agreement and were truthful, timely and required by federal securities law. Defendants also maintain that, under the Partnership Agreement, Boardwalk GP as General Partner has complete discretion as to when to seek an Opinion of Counsel and complete discretion to exercise the Call at any time within 90 days of receipt of an Opinion of Counsel.

Q. On May 25, 2018, Plaintiffs filed a Motion for Expedited Proceedings.

R. On May 29, 2018, Defendants filed their Opposition to Plaintiffs' Motion for Expedited Proceedings.

S. Also on May 29, 2018, the Court held a teleconference hearing on Plaintiffs' Motion for Expedited Proceedings, denied the motion and stayed the Action.

T. Beginning on May 30, 2018, counsel for BPHC and counsel for Plaintiffs discussed the fact that, in the event that Boardwalk GP exercises its right to purchase the common units, the purchase price will depend on the timing of the mailing of the notice of election pursuant to Section 15.1(c) of the Partnership Agreement. As Plaintiffs have alleged in the Complaint, with every trading day that passes, a higher unit market price from 180 trading days ago is replaced by a

lower current unit market price. *See* Compl. ¶ 68. As a result, with every trading day that passes, the estimated purchase price upon an exercise of the Call decreases.

U. This Stipulation is intended, subject to the terms and conditions set forth below, to fully, finally and forever resolve, discharge and settle the Released Plaintiffs' Claims as against the Released Defendant Parties and the Released Defendants' Claims as against the Released Plaintiff Parties, with prejudice.

V. The entry by the Parties into this Stipulation is not, and shall not be construed as or deemed to be evidence of, an admission as to the merit or lack of merit of any claims or defenses that were asserted or could have been asserted in this Action.

W. Plaintiffs continue to believe that their claims have legal merit, but nevertheless recognize and acknowledge the risk and uncertainty of prosecuting this Action.

X. Defendants deny any and all allegations of wrongdoing, fault, liability or damage whatsoever; deny that they engaged in or committed any breach of contract, breach of the implied covenant of good faith and fair dealing, tortious interference, wrongdoing or violation of law; and maintain that they have complied with their legal and contractual duties.

Y. Defendants are entering into this Settlement solely to eliminate the burden and expense of further litigation and to put the claims to be released hereby to rest finally and forever in the event BPHC elects to cause Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation. Plaintiffs are entering into this Settlement because they believe that attempting to induce Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation (calculating the purchase price for the common units using the 180 trading days ending no later than June 29, 2018) is the best outcome for the Partnership's unitholders.

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO AND AGREED, by Plaintiffs, for themselves and on behalf of the Class, and Defendants that, subject to the approval of the Court and pursuant to Chancery Court Rule 23, for the good and valuable consideration set forth herein, subject to the terms and conditions set forth below, and effective upon the Effective Date, the Action hereby is fully, finally and forever settled, compromised, released and dismissed with prejudice, and the Released Plaintiffs' Claims and the Released Defendants' Claims hereby are fully, finally and forever settled, compromised, released and dismissed with prejudice as to each of the Released Defendant Parties and the Released Plaintiff Parties, in the manner set forth herein.

A. Definitions

1. In addition to the terms defined elsewhere in this Stipulation, the following capitalized terms used in this Stipulation shall have the meanings specified below:

(a) “Affiliate” means, with respect to any person or entity, any other person or entity that directly or indirectly controls, is controlled by or is under common control with, the person or entity in question. As used herein, the term “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise.

(b) “Call” means the right of Boardwalk GP set forth in Section 15.1(b) of the Partnership Agreement to purchase all, but not less than all, of the common units then outstanding held by persons or entities other than Boardwalk GP and its Affiliates.

(c) “Claims” means any and all manner of claims, demands, actions, potential actions, suits, causes of action, judgments, decrees, agreements, rights, obligations, duties, damages, losses, liabilities, debts, costs, expenses, attorneys’ fees, interest, penalties, taxes, sanctions, matters, issues and controversies of any kind, nature or description whatsoever, whether known or unknown, disclosed or undisclosed, suspected or unsuspected, apparent or not apparent, accrued or unaccrued, fixed or contingent, matured or not matured, liquidated or not liquidated, asserted or unasserted, or due or to become due, including Unknown Claims, and whenever or however arising or incurred

(including those arising out of or based on any state, local, foreign, federal or other law, rule or regulation, contract, breach, violation, infringement or tort, whether based on negligence, strict liability or otherwise) and whether legal, equitable or statutory.

(d) “Class” means all persons or entities who owned any common units of the Partnership, either of record or beneficially, at any time from and including April 30, 2018 through and including the Purchase Date (the “Class Period”), including any and all of their respective legal representatives, heirs, executors, administrators, predecessors, predecessors-in-interest, successors, successors-in-interest and assigns, immediate and remote, only in their capacity as such, and any person or entity acting for or on behalf of, or claiming under, any of them, only in their capacity as such, and each of them, but excluding Defendants and their subsidiaries and Affiliates.

(e) “Class Member” means a member of the Class.

(f) “Defendants’ Counsel” means the law firms of Davis Polk & Wardwell LLP; Foley & Lardner LLP; Richards, Layton & Finger, P.A.; Vinson & Elkins LLP; and Young Conaway Stargatt & Taylor, LLP.

(g) “Disclosures” mean all oral and written public statements made by or on behalf of Defendants or their Affiliates at any time through and including the date of this Stipulation regarding the Call, the consideration of whether to exercise the Call or any element, term, condition or circumstance of the Call or such consideration, including those relating to (a) the FERC Revised Policy Statement or any related FERC statements or actions, including the Notice of

Inquiry and Notice of Proposed Rulemaking issued by the FERC on March 15, 2018, and any subsequent related FERC statements or actions; (b) the Tax Cuts and Jobs Act of 2017; (c) any notice of election and/or any Purchase Date; (d) this Action or any other legal action related to the Call, any notice of election and/or any Purchase Date or any of the matters at issue therein; or (e) any effects or potential effects of any of the foregoing. “Disclosures” also means (x) any actual, potential or alleged omission regarding any of the foregoing; and (y) all oral and written public statements made by or on behalf of Defendants or their Affiliates substantially in the form attached hereto as Exhibit E and any other substantially similar disclosures consistent therewith.

(h) “Effective Date” means the first business day following the date the Judgment becomes Final.

(i) “Final,” when referring to the Judgment or any other court order, means the later of (i) the expiration of the time for the filing or noticing of an appeal, writ, petition or motion for reargument or rehearing from the Court’s entry of the Judgment or order without such appeal or motion having been made; (ii) the date of final affirmance of the Court’s entry of the Judgment or order on any appeal or reargument or rehearing; or (iii) the final dismissal of any such appeal or writ proceeding.

(j) “Judgment” means the Order and Final Judgment substantially in the form attached as Exhibit C hereto.

(k) “Party” means any one of, and “Parties” means all of, the parties to this Stipulation, namely, (i) Defendants and (ii) Plaintiffs (on behalf of themselves and the Class).

(l) “Purchase Date” means the date determined by Boardwalk GP as the date for purchase of all the outstanding common units as set forth in Sections 15.1(b) and (c) of the Partnership Agreement, in the event Boardwalk GP exercises the Call.

(m) “Plaintiffs’ Counsel” means the law firms of Friedlander & Gorris, P.A.; Bernstein Litowitz Berger & Grossmann LLP; and Paskowitz Law Firm, P.C.

(n) “Released Defendant Parties” means Defendants and their past or present subsidiaries, parents and Affiliates (including Loews Corporation and its subsidiaries and Affiliates) and Defendants’ and such subsidiaries’, parents’ and Affiliates’ past or present, direct or indirect, associates, members, partners, directors, officers, employees, agents, representatives, financial or investment or other advisors, attorneys (including Defendants’ Counsel and each other counsel to Defendants or Defendants’ parents and Affiliates), partnerships, investment funds, insurers and any and all legal representatives, heirs, executors, administrators, predecessors, predecessors-in-interest, successors, successors-in-interest and assigns of each of the foregoing.

(o) “Released Defendants’ Claims” means any and all Claims that were or could have been or could be alleged, asserted, set forth or claimed in the Action or in any court, tribunal, forum or proceeding by Defendants or any of their

respective successors and assigns against any of the Released Plaintiff Parties which arise out of or relate in any way to the institution, prosecution, settlement or dismissal of the Action; provided, however, that the Released Defendants' Claims shall not include claims to enforce the Stipulation.

(p) "Released Plaintiff Parties" means Plaintiffs, all Class Members and Plaintiffs' Counsel.

(q) "Released Plaintiffs' Claims" means any and all Claims that are based upon, arise out of, result from, relate to or involve any of the actual, alleged, attempted, contemplated or potential actions, transactions, occurrences, statements, representations, misrepresentations, omissions, allegations, facts, practices, events, claims or any other matters, things or causes whatsoever, or any series thereof, that (i) were or could have been or could be alleged, asserted, set forth or claimed in the Action, or in any court, tribunal, forum or proceeding, against any of the Released Defendant Parties and (ii) are based upon, arise out of, result from, relate to, or involve, directly or indirectly (a) the Disclosures; (b) the Call, the consideration of whether to exercise the Call or any element, term, condition or circumstance of the Call; (c) any notice of election and/or any Purchase Date (including the selection of any Purchase Date); (d) the allegations, transactions, facts, matters or occurrences, representations, or omissions set forth in the Complaint filed in this Action; (e) the consideration received by Plaintiffs and the Class in connection with the Call, any notice of election and/or Purchase Date; or (f) the fees, expenses or costs incurred in prosecuting, defending or settling the Action; provided, however, that the

Released Plaintiffs' Claims shall not include the right to enforce (x) the payment of the consideration as set forth in the notice of election; or (y) this Stipulation.

(r) "Scheduling Order" means the scheduling order to be entered pursuant to Chancery Court Rule 23, substantially in the form attached hereto as Exhibit A.

(s) "Settlement" means the settlement contemplated by this Stipulation.

(t) "Settlement Hearing" means the hearing to be held by the Court to determine whether the proposed Settlement should be approved as fair, reasonable and adequate; whether and in what amount any award of attorneys' fees, cost and expenses should be paid to Plaintiffs' Counsel; and whether a Judgment approving the Settlement should be entered in accordance with the terms of this Stipulation.

(u) "Unknown Claims" means any and all Claims that any person or entity granting a release pursuant to the Settlement does not know or suspect to exist in his, her or its favor at the time of granting the release pursuant to the Settlement, including any such Claims which, if known, might have affected the decision to enter into the Stipulation or to object to the Settlement.

B. Settlement Consideration

2. The Parties agree that if BPHC elects to cause Boardwalk GP to exercise the Call such that the purchase price for the common units shall be calculated pursuant to Sections 15.1(b) and (c) of the Partnership Agreement using the 180 trading days ending no later than June 29, 2018, subject to Court approval

of the Settlement and effective on the Effective Date: (i) Plaintiffs and the Class Members shall release the Released Plaintiffs' Claims as to the Released Defendant Parties as set forth herein, and (ii) Defendants shall release the Released Defendants' Claims as to the Released Plaintiff Parties as set forth herein. In accordance with Paragraph G.14 of this Stipulation, in the event that BPHC does not elect to cause Boardwalk GP to exercise the Call as provided in the first sentence of this Paragraph B.2, the Settlement shall automatically terminate.

C. Releases

3. Upon the entry of the Judgment approving the Settlement, the Action shall be dismissed with prejudice, on the merits and without costs.

4. Pursuant to the Judgment and effective on the Effective Date, Plaintiffs and all Class Members, on behalf of themselves and anyone acting on their behalf, including any and all of their respective legal representatives, heirs, executors, administrators, predecessors, predecessors-in-interest, successors, successors-in-interest and assigns, immediate and remote, only in their capacity as such, shall fully, finally and forever release, settle and discharge the Released Defendant Parties from and with respect to the Released Plaintiffs' Claims, and shall forever be barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any Released Plaintiffs' Claims against any of the Released Defendant Parties.

5. Pursuant to the Judgment and effective on the Effective Date, Defendants, on behalf of themselves and anyone acting on their behalf, including any and all of their respective legal representatives, heirs, executors,

administrators, predecessors, predecessors-in-interest, successors, successors-in-interest and assigns, immediate and remote, only in their capacity as such, shall fully, finally and forever release, settle and discharge the Released Plaintiff Parties from and with respect to the Released Defendants' Claims, and shall forever be barred and enjoined from commencing, instituting or prosecuting any Released Defendants' Claims against any of the Released Plaintiff Parties.

6. With respect to any and all Released Plaintiffs' Claims and Released Defendants' Claims, effective upon the Effective Date, Plaintiffs and Defendants expressly waive, and each of the Class Members is deemed to have, and by operation of the Judgment has, expressly waived, relinquished and released any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law or foreign law, which is similar, comparable or equivalent to Cal. Civ. Code § 1542, which provides:

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 by him or her must have materially affected his or her settlement with the debtor.

7. Plaintiffs and Defendants acknowledge, and effective on the Effective Date, the other Class Members, by operation of the Judgment, are deemed to acknowledge, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Plaintiffs' Claims and Released Defendants' Claims, but that it is the intention of Plaintiffs and Defendants and, effective on the Effective Date, by operation of the Judgment, of

the other Class Members, to completely, fully, finally and forever extinguish any and all Released Plaintiffs' Claims and Released Defendants' Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist, and without regard to the subsequent discovery of such additional or different facts. Plaintiffs and Defendants acknowledge, and the other Class Members, effective on the Effective Date by operation of the Judgment are deemed to acknowledge, that the inclusion of "Unknown Claims" in the definition of Claims included in the definition of the Released Plaintiffs' Claims and Released Defendants' Claims is separately bargained for and is a key element of the Settlement.

8. It is the intention of the Parties, in the event that the Judgment becomes Final, that (i) the obligations incurred pursuant to this Stipulation are in full and final disposition of the Action and all Released Plaintiffs' Claims and Released Defendants' Claims; (ii) the Settlement shall eliminate all further risk and liability relating to the Released Plaintiffs' Claims and Released Defendants' Claims; and (iii) the Settlement is a final and complete resolution of all disputes asserted or which could be or could have been asserted with respect to the Released Plaintiffs' Claims and Released Defendants' Claims, including any third party or alleged joint tortfeasors' claims for contribution, in accordance with 10 *Del. C.* § 6304 and any related or similar laws, statutes or provisions, whether denominated as contribution, indemnification or otherwise.

D. Submission of the Settlement to the Court for Approval

9. As soon as practicable after this Stipulation has been executed, Plaintiffs and Defendants shall jointly apply to the Court for entry of the Scheduling Order, providing for, among other things: (a) the dissemination of the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”), substantially in the form attached hereto as Exhibit B; (b) publication of the Summary Notice of Pendency and Proposed Settlement of Class Action (the “Summary Notice”), substantially in the form attached hereto as Exhibit D; and (c) the scheduling of the Settlement Hearing to consider (i) the proposed Settlement, (ii) the joint request of the Parties that the Judgment be entered, (iii) Plaintiffs’ Counsel’s application for approval of an award of attorney’s fees and expenses; and (iv) any objections to any of the foregoing. The Parties agree to use their best efforts to seek and obtain entry of the Scheduling Order. The Parties shall jointly request at the Settlement Hearing that the Judgment be entered and shall use their best efforts to obtain Final entry of the Judgment. Defendants (or their successor(s) in interest) shall be responsible for providing notice of the Settlement, and BPHC shall pay any and all costs associated with providing notice of the Settlement regardless of whether the Court approves the Settlement or the Effective Date fails to occur, and in no event shall Plaintiffs, any other Class Member, or their attorneys be responsible for any notice costs.

E. Conditions of Settlement

10. This Settlement shall be subject to the following conditions:

(a) BPHC elects to cause Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation;

(b) the Court enters the Scheduling Order; and

(c) the Court enters the Judgment and the Judgment becomes Final (for the avoidance of doubt, the scope of the Released Plaintiffs' Claims and the Released Defendants' Claims are material terms of this Stipulation).

The Parties will use their best efforts to achieve the conditions set forth in paragraphs (b) and (c) of this Paragraph 10.

F. Attorneys' Fees and Expenses

11. In the event that BPHC elects to cause Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation, Plaintiffs' Counsel may apply for an award of attorneys' fees, costs and expenses in an amount not to exceed \$1.8 million. Defendants acknowledge Plaintiffs' Counsel's right to an award of attorneys' fees and reimbursement of litigation expenses based on the substantial benefits conferred upon Plaintiffs and the Class by the prosecution of the Action and the Settlement. If this Court enters the Judgment, BPHC will, subject to approval of the Court, pay such an award of attorneys' fees and expenses in an amount not to exceed \$1.8 million, within 10 days after the entry of the Judgment, notwithstanding the existence of any timely filed objections to the fee and expense award, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. If the Settlement is thereafter terminated pursuant to the terms of this Stipulation, or if the amount of Court-awarded attorneys' fees and expenses is thereafter reversed or modified by court order and such court order

has become Final, Plaintiffs' Counsel shall within 20 days repay the attorneys' fees and expenses in an amount consistent with such termination, reversal or modification.

12. The disposition of any fee application or award is not a material term of this Stipulation, and it is not a condition of this Stipulation that any such application be granted. Any fee application may be considered separately from the proposed Stipulation.

13. Plaintiffs' Counsel warrant that no fee or expenses shall be paid to Plaintiffs or to any Class Member, except as approved by the Court.

G. Termination of Settlement; Effect of Termination

14. The Settlement shall automatically terminate in the event that BPHC does not elect to cause Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation. The Parties shall have the right to terminate the Settlement by providing written notice of their election to do so to the other Parties within 10 business days of (a) the Court's declining to enter the Scheduling Order, in any material respect; (b) the Court's declining to enter the Judgment approving the Settlement, in any material respect; or (c) the modification or reversal of the Judgment approving the Settlement, in any material respect on or following appellate review, remand, collateral attack or other proceedings.

15. Neither a modification nor a reversal on appeal of any amount of fees, costs and expenses approved by the Court for Plaintiffs' Counsel shall be deemed a material modification of the Judgment or this Stipulation.

16. If the Effective Date does not occur, or if the Settlement is disapproved or terminated pursuant to the terms of this Stipulation, or the Judgment otherwise does not become Final for any reason, all of the respective claims and defenses of Class Members and Defendants as to any issue in the Action shall be preserved without prejudice.

H. Miscellaneous

17. All of the Exhibits attached hereto are material and integral parts hereof and shall be incorporated by reference as though fully set forth herein.

18. This Stipulation may not be amended or modified, nor may any of its provisions be waived, except by a written instrument signed by counsel for Plaintiffs and Defendants or their successors-in-interest.

19. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

20. The Parties represent and agree that the terms of the Settlement were negotiated at arm's length and in good faith, and the Parties agree that the Settlement was reached voluntarily based upon adequate information and after consultation with experienced legal counsel.

21. This Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties, and all Parties have contributed substantially and materially to the preparation of this Stipulation.

22. Defendants deny any and all allegations of wrongdoing, fault, liability or damage in the Action. The Parties covenant and agree that neither this Stipulation, nor the fact or any terms of the Settlement, nor any communications relating thereto, is a finding or evidence, or an admission or concession, by Plaintiffs or Defendants or their counsel, or any Class Member, or any of the Released Defendant Parties or Released Plaintiff Parties, of any fault, liability or wrongdoing whatsoever, as to any facts or claims alleged or asserted in the Action, or any other actions or proceedings, or as to the validity or merit of any of the claims or defenses alleged or asserted in any such action or proceeding. Neither this Stipulation, nor any of the terms and provisions of this Stipulation, nor any of the negotiations or proceedings in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statements in connection therewith (a) shall (i) be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence or a finding of any liability, fault, wrongdoing, injury or damages, or of any wrongful conduct, act or omission on the part of any of the Released Defendant Parties or Released Plaintiff Parties, or of any infirmity of any defense, or of any damage to Plaintiffs or any other Class Member, or any lack of merit of any claim, or lack of damages to Plaintiffs or any other Class Member, or (ii) otherwise be used to create or give rise to any inference or presumption against any of the Released Defendant Parties or Released Plaintiff Parties concerning any fact or any purported liability, fault or wrongdoing of the Released Defendant Parties or

Released Plaintiff Parties or any injury or damages to any person or entity, or (b) shall otherwise be admissible, referred to or used in any proceeding of any nature, for any purpose whatsoever; provided, however, that the Stipulation and Judgment may be introduced in any proceeding subject to Rule 408 of the Federal Rules of Evidence and any and all other state law corollaries thereto, whether in the Court or otherwise, as may be necessary to argue and establish that the Stipulation and Judgment have res judicata, collateral estoppel or other issue or claim preclusion effect or to otherwise consummate or enforce the Settlement and Judgment or as otherwise required by law.

23. The consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders enforcing the terms of this Stipulation.

24. Without further order of the Court, Plaintiffs and Defendants may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

25. To the extent permitted by law, all agreements made and orders entered during the course of the Action relating to the confidentiality of documents or information shall survive this Stipulation.

26. Any waiver by Plaintiffs or Defendants of any breach of this Stipulation must be in writing and shall not be deemed a waiver of any other prior or subsequent breach of any provision of this Stipulation.

27. This Stipulation and the Exhibits attached hereto constitute the entire agreement between Plaintiffs, on the one hand, and Defendants, on the other hand,

and supersede any prior agreements among Plaintiffs, on the one hand, and Defendants, on the other hand, with respect to the Settlement. No representations, warranties or inducements have been made to or relied upon by any Party concerning this Stipulation or its Exhibits, other than the representations, warranties and covenants expressly set forth in such documents.

28. This Stipulation may be executed in one or more counterparts, including by facsimile and electronic mail.

29. The Parties and their respective counsel of record agree that, in the event that BPHC elects to cause Boardwalk GP to exercise the Call as provided in Paragraph B.2 of this Stipulation, the Parties will use their best efforts to obtain all necessary approvals of the Court required by this Stipulation (including using their best efforts to resolve any objections raised to the Settlement), and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

30. Each of the Plaintiffs represents and warrants that he is a member of the Class and that none of his claims or causes of action referred to in this Stipulation have been assigned, encumbered or otherwise transferred, in whole or in part.

31. Each counsel signing this Stipulation warrants that such counsel has been duly empowered and authorized to sign this Stipulation on behalf of his or her clients.

32. This Stipulation is and shall be binding upon and shall inure to the benefit of the Released Defendant Parties and the Released Plaintiff Parties

(including the Class Members) and their respective legal representatives, heirs, executors, administrators, successors, successors-in-interest and assigns and upon any corporation, partnership or other entity into or with which any Party may merge, consolidate or reorganize.

33. This Stipulation, the Settlement and any and all disputes arising out of or relating in any way to this Stipulation or Settlement, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflicts of law principles.

34. Any action or proceeding to enforce any of the terms of the Stipulation or Settlement, or any other action or proceeding among any of Plaintiffs, Defendants and any Class Members arising out of or relating in any way to this Stipulation or the Settlement, shall (i) be brought, heard and determined exclusively in the Court, which shall retain jurisdiction over the Parties and the Class Members and all such disputes (provided that, in the event that subject matter jurisdiction is unavailable in the Court, then any such action or proceeding shall be brought, heard and determined exclusively in any other state or federal court sitting in Delaware) and (ii) not be litigated or otherwise pursued in any forum or venue other than the Court (or, if subject matter jurisdiction is unavailable in the Court, then in any forum or venue other than any other state or federal court sitting in Delaware). Effective on the Effective Date, each Party hereto, and each Class Member by operation of the Judgment (1) consents to personal jurisdiction in any such action (but in no other action) brought in the Court (or in such other state or federal court in Delaware as provided above); (2)

consents to service of process by registered mail upon such party and/or such party's agent; (3) waives any objection to venue in the Court (or in such other state or federal court in Delaware as provided above) and any claim that Delaware or the Court (or such court) is an inconvenient forum; and (4) EXPRESSLY WAIVES ANY RIGHT TO DEMAND A JURY TRIAL AS TO ANY DISPUTE DESCRIBED IN THIS PARAGRAPH.

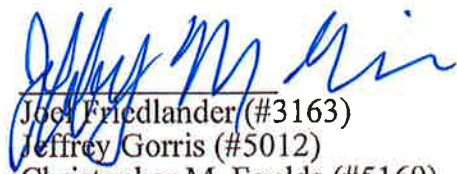
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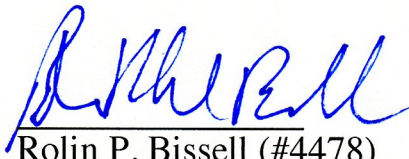
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