

RELEASE AND SETTLEMENT AGREEMENT

THIS RELEASE AND SETTLEMENT AGREEMENT ("Agreement") is made as of NOVEMBER 17, 1994 between MELANIE A. GOLDSMITH, PAMELA JEAN SHEPHERD, LEAH E. TILLMAN, and AURIA GILMORE, on their behalf and on behalf of all persons similarly situated (hereinafter referred to as "Plaintiffs") and GLENN J. RODANO (hereinafter referred to as "Defendant"), as a full and final settlement of the case Melanie A. Goldsmith, et al. v. Glenn Rodano and Nancy Rodano, Alameda Superior Court No. 694077-9 (Goldsmith v. Rodano).

RECITALS

1. WHEREAS, on February 3, 1992, the Plaintiffs filed a Complaint in the above-referenced matter against Defendants Glenn J. Rodano and Nancy Rodano (aka Nancy Jo Tiano or Nancy Jo Detlaf) (hereinafter referred to as "Defendants") alleging, among other things, as more fully set forth in the Complaint (which is incorporated herein), fraud and deceit, as well as negligent conduct as Stockholders, Directors and Officers of Allied Education Corporation and its subsidiaries and fictitiously named affiliates, including, the Lawton School in Oakland, California;

2. WHEREAS, the Defendants have denied and continue to deny the allegations as set forth in the Complaint in this action and continue to deny any liability and/or culpability relating thereto;

EXHIBIT

A

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3. WHEREAS, the parties hereto desire to resolve their differences with respect to the matters alleged in the Complaint, and to finally settle and extinguish the Plaintiffs' claims with regard to the allegations as set forth in the Complaint and as set forth herein;

4. WHEREAS, Defendant warrants and represents that he does not have the current financial wherewithal to satisfy the pending claims by Plaintiffs in the amounts demanded by Plaintiffs;

5. WHEREAS, Glenn J. Rodano affirmatively represents and warrants, as material terms of this Agreement, that he is financially solvent, and does not presently expect or presently intend to file for Bankruptcy Code protection during the duration of this Agreement;

6. WHEREAS, the parties agree that the obligations created by this Agreement are not undertaken for any fraudulent, illegal or improper purpose, and are current obligations undertaken to avoid trial and to settle Plaintiffs' claims;

7. WHEREAS, Glenn J. Rodano represents and warrants, as a material term of this Agreement, that within the past two years he did not convey any property or assets to Lisa J. Rodano (aka Lisa Birkle), Nancy J. Rodano, or anyone else, fraudulently, improperly or illegally, or for the purpose of depleting his assets to protect against their distribution to potential judgment creditors;

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IT IS, THEREFORE, AGREED, in consideration of the terms, covenants, conditions and provisions stated in this AGREEMENT:

AGREEMENT

1. A fund shall be set up to administer the payments as set forth herein. A trustee, receiver or administrator (hereafter "Trustee") shall be appointed to administer the payments in accordance with specific instructions agreed to by the parties and approved by the court.

2. The parties hereto agree to the entry of judgment against the Defendant, for the total sum of One Hundred Eighty Thousand Dollars 00/00 (\$180,000.00), which may be satisfied by payment of One Hundred Thirty Thousand Dollars 00/00 (\$130,000.00), payable \$100,000 to Plaintiffs and \$30,000 to Plaintiffs' counsel for costs of suit and administration of the Rodano Settlement Fund, in accordance with the following terms:

a. On signing this Agreement, Defendant shall deliver to Class Action Counsel a bank cashier's check, money order, or certified check payable to the order of "Trustee, Rodano Settlement Fund" in the sum of \$30,000.00: \$20,000 will thereafter be distributed to Plaintiffs; \$10,000 to Plaintiffs' counsel to defray costs;

b. Thereafter, Defendant shall pay to Plaintiffs the balance owing on said judgment amortized over four years commencing ~~January~~ ^{April} 15, 1996, and payable at the rate of \$25,000.00 per year and continuing on the 15th day of

- 3 -

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APRIL 23, 1999
H.R. (S)

January, 1997, 1998 and 1999, until the entire balance is paid in full. Each payment will be made by bank cashier's check, money order, or certified check. The balance shall not bear interest. \$20,000 of each payment shall be distributed to Plaintiffs; \$5,000 to Plaintiffs' counsel to defray costs;

c. Except as otherwise provided to the contrary herein, time is of the essence. No less than fifteen (15) days before any payment due date, the Trustee shall send Defendant a reminder Notice concerning the due date. The failure to send this Notice shall not be a waiver of any provision of this Agreement or this subparagraph, and shall not be a pre-condition for Defendant making timely remittance. If the Trustee has not received a payment within ten (10) days of its due date, Defendant will be in default and the full "outstanding settlement amount" (\$180,000 less previous payments) will be immediately due and payable. On or about the tenth day after the due date, if the Trustee has not received Defendant's remittance, the Trustee shall send Defendant, by overnight mail, at Defendant's last known address, a Notice of Default concerning the outstanding remittance, and demanding the remittance of the full outstanding settlement amount. Defendant may cure any default, however, by payment of the delinquent payment on or before the tenth (10th) day after the Trustee sends the Notice of Default. If the full outstanding settlement amount is not paid in accordance with the terms of this paragraph, or if Defendant fails to timely cure any default pursuant to this paragraph, Plaintiffs may execute the judgment and attach any or all of Defendant's real or personal property to satisfy the judgment. Mailing of the Notice as set forth in this paragraph, and not receipt by Defendant, will be a pre-condition to executing the judgment or attaching

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property to satisfy the judgment. ~~In the event the judgment is executed for non-payment, the release by Plaintiffs becomes void.~~



3. If Defendant is obligated to pay the full judgment amount, \$140,000 shall be payable to Plaintiffs, and \$40,000 shall be payable to Plaintiffs' counsel to defray costs of suit and administration of the Rodano Settlement Fund.

4. To receive payments hereunder, Claimants must provide satisfactory proof that they either paid money directly to the Lawton School in Oakland or that they borrowed funds from any person or entity other than the Lawton School in Oakland for the purpose of paying for or enhancing their education through Lawton School within the time periods set forth in the Complaint. Additionally, each claimant shall sign a form, under penalty of perjury, setting forth as follows:

a. The approximate dates of attendance at Lawton School in Oakland;

b. The amount that the claimant borrowed and the balance currently owing and directly related to the claimant's attendance at Lawton School;

c. The amounts of payments to Lawton School, if any;

d. That the claimant did not obtain a satisfactory job in the claimant's chosen field of study at the Lawton School, or a job paying in the salary range advertised by Lawton School materials or staff;



e. That the loan or other obligations for which the claimant is seeking reimbursement has not been forgiven or excused.

5. Eligibility of any claimant for distribution of settlement funds shall be determined by the Trustee. Any dispute as to eligibility shall be subject to Paragraph 20, below.

6. The Trustee shall be authorized to and shall withhold settlement funds from any claimant if the payment of funds (in addition to funds received from Allied Education Corporation or otherwise that relate to the same or similar claims as contained in the Complaint) would result in that claimant receiving more than the claimant's Lawton-related debt. The Trustee shall only withhold the excess over the Lawton-related debt, and shall make that excess available for distribution through the Settlement Fund.

7. For so long as Defendant continues to make his payments in a timely fashion as provided for herein, Plaintiffs shall do nothing to enforce the other terms of this Agreement or otherwise execute on the judgment. Upon full and timely performance of all of Defendant's obligations under this Agreement, including payment to Plaintiffs, Plaintiffs' counsel will move that the judgment be set aside, and will move to dismiss the case with prejudice.

8. Defendant agrees to provide to the Trustee, Rodano Settlement Fund, and Class Action Counsel, yearly (on or before January 1) notice of the address at which he will accept service of process, mail or notices from the Trustee, as well

as a declaration advising the Trustee of whether the total equity of Defendant's assets exceeds \$500,000.00, or if his liquid assets (cash or cash equivalent convertible to cash within 15 days) are in excess of five (5) times the balance outstanding under this Agreement (\$130,000 less payments). If Defendant's assets exceed \$500,000.00 or if his liquid assets, as defined herein, exceed five (5) times the balance outstanding under this Agreement (\$130,000 less payments), Defendant will be obligated to fully satisfy his obligations under this Agreement.

9. All payments as provided for herein shall be made by bank cashier's check, money order, or certified check (payable as provided in Paragraph 2, above), and shall be sent by overnight mail or hand delivered to:

"CROSBY, HEAFEY, ROACH & MAY, Class Action Counsel
Attn: Ronald L. Murov, Kenneth M. Seeger or David E. Durant
Case No. 99000.00461; phone: (510) 763-2000
1999 Harrison Street
P.O. Box 2084
Oakland, CA 94604-2084"

10. Plaintiffs accept the full, final and timely payment of the total sum provided for herein as full and final settlement between the parties to this Agreement of any and all claims alleged against the Defendant in the Complaint.

11. Upon full satisfaction of the judgment, as provided for herein, by Defendant, the Plaintiffs, on their behalf and on behalf of all persons similarly



situated,¹ as well as for their heirs, assigns, executors, administrators, successors, predecessors, representatives, partners, officers, directors, shareholders, employees, attorneys and agents, fully release Defendant and his heirs, assigns, executors, trustees, beneficiaries, administrators, successors, predecessors, representatives, attorneys and agents from all claims, demands, liens, interests, debts, actions and causes of action of any kind whatsoever, whether known or unknown, suspected or unsuspected, arising out of or in any way connected with Plaintiffs' attendance at the Lawton School in Oakland, California, or in any way relating to the allegations as set forth in the Complaint. This release specifically does not include a release of any claims by Plaintiffs against the Lawton School, Allied Education Corporation, a California Corporation, Allied Education Corporation, a Delaware Corporation, on any of their subsidiaries or related entities, heirs, assigns, executors, trustees, administrators, successors, predecessors, representatives, partners, officers (except Glenn Rodano), employees, attorneys or agents, including the claims asserted in the action styled as In Re Allied Education Case Nos. SA 90-04460-JR and SA 90-07009-JR, U.S. Bankruptcy Court, Central District of California [Chapter 11 or Chapter 7 filing].

12. Except as provided elsewhere in this Agreement (including without limitation ¶10, above), it is understood and agreed by the Plaintiffs that other damages not now known may develop or be discovered, or other consequences or other results may develop or be discovered, and this Agreement is specially intended to cover and include, and does cover and include, all such future damages or future consequences

¹ The Court in the above-referenced action certified a class limited to students who were registered to attend the Lawton School in Oakland, California, at any time between February, 1989 and July, 1990.



or results of known or unknown damages arising out of or in any way connected with the subject matter of this Agreement; that the provisions of section 1542 of the Civil Code of the State of California are expressly waived by all parties hereto, and all parties acknowledge that said section provides the following:

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

13. The validity, construction, interpretation and enforcement of this Agreement and its terms and provisions shall be governed by the laws of the State of California. This Agreement has been drafted jointly by counsel for the parties and shall be construed without regard to who drafted it and shall be construed as though all parties to this Agreement participated equally in the drafting of it.

14. This Agreement is a release of disputed claims arising from the allegations in the Complaint. It is understood by all parties that this Agreement does not constitute an admission of liability, but is entered into solely as and for a compromise settlement of such disputed claims. It is, however, further understood between the parties that this Agreement creates a current obligation, and that the judgment, debts and obligations created by this Agreement shall not be dischargeable in bankruptcy and are non-dischargeable pursuant to the terms of Bankruptcy Code Section 523. It is further understood that if the original claims are revived due to non-



performance or bankruptcy by Defendant, the character of the debt, as non-dischargeable, can be pursued in the Bankruptcy Court and elsewhere.

15. The terms of this Agreement are contractual, not merely a recital. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute a waiver of any other provisions, whether or not similar. Nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the other party making the waiver.

16. This Agreement is intended to be final and binding upon the parties upon full and complete performance of all obligations hereunder. Each of the parties hereto relies upon the finality of this Agreement as a material factor inducing that party's execution of this Agreement.

17. Except as to any claims arising from any alleged failure to perform obligations under this Agreement, the parties hereto covenant and agree not to bring any action, claim, suit or proceeding against each other, directly or indirectly, regarding or relating to the matters released hereby, and further covenant and agree that this Agreement is a bar to any such claim, action, suit or proceeding.

18. Each of the parties whose signature is affixed hereto in a representative capacity represents and warrants that he or she is authorized to

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execute this Agreement on behalf of and to bind the person or entity on whose behalf the signature is affixed.

19. If any suit, action or other proceeding is commenced by any party hereto concerning this Agreement, or to recover damages for the breach of any of the terms or provisions hereunder, or to enforce any such term or provision or otherwise concerning the rights, duties or obligations of any party hereunder, the prevailing party in any such suit, action or proceeding, may be entitled to a reasonable sum as attorneys' fees incurred in connection therewith, which shall be fixed in such suit, action or proceeding, in addition to any other relief granted.


20. In the event of a dispute with regard to the administration of the settlement fund or the payment of any claim, the Trustee shall submit the dispute to Defendant and Class Action Counsel for resolution within 30 days. If the parties are unable to resolve the dispute and provide written direction to the Trustee within that period of time, then the Trustee shall apply to the Court for further direction and/or clarification.

21. Copies of this Agreement may be signed as counterparts by one or more parties hereto and shall have the same force and effect as if an original single document had been signed by all parties.

22. Except as provided for herein, all parties hereto will bear their own costs, attorneys' fees and expenses.

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24. The undersigned have read the foregoing Agreement, fully understand it, and assent to its terms and provisions on their own behalf and on behalf of all persons similarly situated. The undersigned acknowledge that they and all persons similarly situated have been represented by counsel with respect to the negotiation and interpretation of this Agreement.

DATED: 7/12/95 
MELANIE A. GOLDSMITH


DATED: 7/26/95 
PAMELA JEAN SHEPHERD

DATED: 7/28/95 
LEAH E. TILLMAN

DATED: 7/25/95 
AURIA GILMORE

DATED: 7/28/95

APPROVED AS TO FORM AND CONTENT

by 
David E. Durant
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Plaintiff Melanie A.
Goldsmith, Pamela Jean Shepherd,
Leah E. Tillman, and Auria Gilmore,
on their behalf and on behalf of all
persons similarly situated

25. The undersigned has read the foregoing Agreement, fully understands it, and assents to its terms and provisions. The undersigned acknowledges that he has been represented by counsel with respect to the negotiation and interpretation of this Agreement.

DATED: 4-26-95

Glenn J. Rodano
GLENN J. RODANO

DATED: 5/31/95

APPROVED AS TO FORM AND CONTENT
by Howard F. Kline
Howard F. Kline
BERGER, KAHN, SHAFTON, MOSS
FIGLER, SIMON & GLADSTONE
Attorneys for Defendants
Glenn J. Rodano and
Nancy J. Rodano

FIRST AMENDMENT TO RELEASE AND SETTLEMENT AGREEMENT

THE RELEASE AND SETTLEMENT AGREEMENT ("Agreement") entered into as of NOVEMBER 17, 1994 (and as fully executed on July 28, 1995) between MELANIE A. GOLDSMITH, PAMELA JEAN SHEPHERD, LEAH E. TILLMAN, and AURIA GILMORE, on their behalf and on behalf of all persons similarly situated (hereinafter referred to as "Plaintiffs") and GLENN J. RODANO (hereinafter referred to as "Defendant"), as a full and final settlement of the case Melanie A. Goldsmith, et al. v. Glenn Rodano and Nancy Rodano, Alameda Superior Court No. 694077-9 (Goldsmith v. Rodano), is hereby amended as follows:

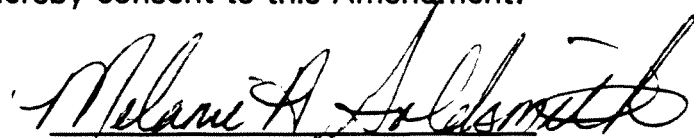
Paragraph 2.b. of the AGREEMENT is hereby amended to read as follows:

"2.b. Thereafter, Defendant shall pay to Plaintiffs the balance owing on said judgment amortized over four years commencing October 1, 1996, and payable at the rate of \$25,000.00 per year and continuing on the 1st day of October, 1997, 1998 and 1999, until the entire balance is paid in full. Each payment will be made by bank cashier's check, money order, or certified check. The balance shall not bear interest. \$20,000 of each payment shall be distributed to Plaintiffs; \$5,000 to Plaintiffs' counsel to defray costs;"

Copies of this Amendment may be signed as counterparts by one or more parties hereto and shall have the same force and effect as if an original single document had been signed by all parties.

The undersigned have read the foregoing Agreement, fully understand it, and assent to its terms and provisions on their own behalf and on behalf of all persons similarly situated. The undersigned acknowledge that they and all persons similarly situated have been represented by counsel with respect to the negotiation and interpretation of this Agreement, and that they hereby consent to this Amendment.

DATED: 8/21/95


MELANIE A. GOLDSMITH

DATED: _____

PAMELA JEAN SHEPHERD

DATED: _____

LEAH E. TILLMAN

DATED: _____

AURIA GILMORE

DATED: _____

APPROVED AS TO FORM AND CONTENT

by _____
David E. Durant
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Plaintiff Melanie A.
Goldsmith, Pamela Jean Shepherd,
Leah E. Tillman, and Auria Gilmore,
on their behalf and on behalf of all
persons similarly situated

The undersigned have read the foregoing Agreement, fully understand it, and assent to its terms and provisions on their own behalf and on behalf of all persons similarly situated. The undersigned acknowledge that they and all persons similarly situated have been represented by counsel with respect to the negotiation and interpretation of this Agreement, and that they hereby consent to this Amendment.

DATED: _____

MELANIE A. GOLDSMITH

DATED: 8/21/95

Pamela J. Shepherd
PAMELA JEAN SHEPHERD

DATED: _____

LEAH E. TILLMAN

DATED: _____

AURIA GILMORE

DATED: _____

APPROVED AS TO FORM AND CONTENT

by

David E. Durant
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Plaintiff Melanie A.
Goldsmith, Pamela Jean Shepherd,
Leah E. Tillman, and Auria Gilmore,
on their behalf and on behalf of all
persons similarly situated

The undersigned have read the foregoing Agreement, fully understand it, and assent to its terms and provisions on their own behalf and on behalf of all persons similarly situated. The undersigned acknowledge that they and all persons similarly situated have been represented by counsel with respect to the negotiation and interpretation of this Agreement, and that they hereby consent to this Amendment.

DATED: _____

MELANIE A. GOLDSMITH

DATED: _____

PAMELA JEAN SHEPHERD

DATED: Aug. 22, 1995



LEAH E. TILLMAN

DATED: _____

AURIA GILMORE

DATED: _____

APPROVED AS TO FORM AND CONTENT

by

David E. Durant
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Plaintiff Melanie A.
Goldsmith, Pamela Jean Shepherd,
Leah E. Tillman, and Auria Gilmore,
on their behalf and on behalf of all
persons similarly situated

The undersigned have read the foregoing Agreement, fully understand it, and assent to its terms and provisions on their own behalf and on behalf of all persons similarly situated. The undersigned acknowledge that they and all persons similarly situated have been represented by counsel with respect to the negotiation and interpretation of this Agreement, and that they hereby consent to this Amendment.

DATED: _____

MELANIE A. GOLDSMITH

DATED: _____

PAMELA JEAN SHEPHERD

DATED: _____

LEAH E. TILLMAN

DATED: Aug. 19, 95


AUBIA GILMORE

DATED: _____

APPROVED AS TO FORM AND CONTENT

by

David E. Durant
CROSBY, HEAFEY, ROACH & MAY
Attorneys for Plaintiff Melanie A.
Goldsmith, Pamela Jean Shepherd,
Leah E. Tillman, and Auria Gilmore,
on their behalf and on behalf of all
persons similarly situated

The undersigned has read the foregoing Agreement, fully understands it, and assents to its terms and provisions. The undersigned acknowledges that he has been represented by counsel with respect to the negotiation and interpretation of this Agreement, and that he hereby consents to this Amendment.

DATED:

8-21-95

Glenn J. Rodano
GLENN J. RODANO

DATED:

APPROVED AS TO FORM AND CONTENT

By

Howard F. Kline
BERGER, KAHN, SHAFTON, MOSS
FIGLER, SIMON & GLADSTONE
Attorneys for Defendants
Glenn J. Rodano and
Nancy J. Rodano