

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into as of October __, 2008 by and between Ohio Indemnity Company ("OIC") and Frances Gecker (the "Trustee," and together with OIC, the "Parties"), solely in her capacity as Chapter 11 Trustee of Automotive Professionals, Inc. ("API").

BACKGROUND

A. API filed a petition for relief under Chapter 11 of the Bankruptcy Code on April 13, 2007 (the "Petition Date") in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court"), Case No. 07-06720 (the "Bankruptcy Case").

B. On June 6, 2007, the Bankruptcy Court ordered the appointment of a Chapter 11 trustee for API. The Office of the United States Trustee selected the Trustee to serve as trustee, and on June 12, 2007, the Bankruptcy Court confirmed appointment of the Trustee as Chapter 11 Trustee for API.

C. Prior to the Petition Date, API was in the business of marketing vehicle service contracts ("VSCs") through automobile dealerships ("Dealers") and agents. VSCs provide for the payment of certain of covered consumers' automobile repairs.

D. In connection with its sale of VSCs, API also offered a Guaranteed Price Refund ("GPR") option, whereby, for an additional fee, a consumer would be entitled to a refund of the VSC purchase price if the VSC ran for its full term and the consumer did not submit a claim under the VSC.

E. OIC issued certain insurance policies to API (together with all amendments and endorsements thereto, the "OIC Policies"). Under the OIC Policies, OIC agreed to pay for certain valid repair claims and cancellation charges made by consumers under VSCs naming

OIC as the insurer (“OIC-Backed VSCs”). As of July 31, 2007, there were approximately 4,307 active OIC-Backed VSCs.

F. Although OIC declined to participate in API’s GPR program, a number of OIC-Backed VSCs were in fact issued with the GPR option. Thus, OIC’s obligations under the OIC Policies were arguably extended to include payment of claims for GPRs (“GPR Claims”).

G. Certain amounts of the funds generated from API’s sale of OIC-Backed VSCs were deposited into reserve accounts (the “Reserve Accounts”) established for the purpose of paying future valid covered repair costs and certain cancellation charges. As of July 31, 2007, the total aggregate amount held in the Reserve Accounts was \$2,031,062, which amount continues to accrue interest.

H. In addition, API and one of its affiliates, Intercontinental Warranty Services, Inc. (“IWSI”), purchased a Letter of Credit (the “Letter of Credit”) in the amount of \$4,300,000, issued by LaSalle Bank National Association (“LaSalle”) for the benefit of OIC. The Letter of Credit secured API’s indemnification obligations to OIC for any costs incurred under the OIC Policies, and IWSI’s indemnification obligations to OIC for any costs incurred under certain other insurance policies that OIC issued to IWSI (the “IWSI Policies”). The Letter of credit was fully collateralized by a certain Jumbo Certificate of Deposit held by LaSalle in the name of API.

I. The amount of the Letter of Credit attributable to the OIC Policies is \$2,700,000, and the amount of the Letter of Credit attributable to the IWSI Policies is \$1,600,000. Pursuant to the terms of the Letter of Credit, OIC was entitled to make only one complete draw thereunder.

J. On February 15, 2007, API executed an assignment for the benefit of creditors, naming Michael Kayman as assignee (the “Assignment”). On March 2, 2007, the People of the

State of Illinois, *ex rel.* Michael T. McRaith, Director of Insurance of the State of Illinois obtained an *ex parte* Order of Conservation of API (the “Conservation Order”) in the Circuit Court of Cook County, Chancery Division, in Case No. 07 CII 05829.

K. Prior to the Assignment, API ceased paying valid covered repair claims arising under the OIC-Backed VSCs, triggering OIC’s payment obligations under the OIC Policies. Thereafter, OIC began paying valid repair claims and cancellation charges made under the OIC-Backed VSCs. OIC incurred significant costs in connection with the administration of claims, and the enforcement of its rights under OIC’s agreements with API.

L. Pursuant to the OIC Policies, OIC asserts that it is entitled to full reimbursement from the Reserve Accounts, up to the amounts held therein, for payments to consumers that OIC made on account of valid covered repair claims, cancellation charges, GPR Claims and administrative expenses incurred by OIC in connection with the foregoing. Moreover, OIC asserts that it is subrogated to the priority claims of the consumers who purchased OIC-Backed VSCs (the “OIC-Backed Consumers”) on account of all claims paid by OIC that should have been paid by API from the Reserve Accounts.

M. On or about August 23, 2007, OIC drew upon the Letter of Credit in the full amount of \$4,300,000, which amount OIC segregated according to the amounts allocated to API and IWSI, respectively.

N. OIC established a separate interest bearing account containing \$2,700,000 in connection with the API funds securing the OIC Policies (the “LC Funds”). Since drawing upon the Letter of Credit, OIC has been using the LC Funds to pay valid claims asserted by the OIC-Backed Consumers. As of September 8, 2008, the balance of LC Funds held by OIC totaled approximately \$2,489,934.

O. The Trustee has previously entered into settlement agreements with certain Dealers, agents and claims administrators that may have included OIC-Backed VSCs (“Other Trustee Settlements”).

P. The Trustee and OIC have engaged in good faith, arm’s length settlement discussions in connection with the issues between them relating to OIC’s claims against API, OIC’s obligations under the OIC Policies, and the respective rights of the Trustee and OIC to the LC Funds and funds on deposit in the Reserve Accounts. The Parties have elected to resolve those issues as set forth in this Agreement

AGREEMENT

In consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which the Trustee and OIC hereby acknowledge, the Parties hereby agree as follows:

1. Obligations of OIC. Effective on the day that an order entered by the Bankruptcy Court approving this Agreement becomes final and non-appealable (the “Effective Date”), OIC hereby agrees to:

- a. Within five business days after the Effective Date, make a payment to the Trustee from the LC Funds totaling \$950,000 (the “OIC Settlement Payment”);
- b. Release any and all interests in and rights to the Reserve Accounts;
- c. Pay all valid covered repair claims and GPR Claims made under OIC-Backed VSCs that are not the subject of Other Trustee Settlements (the “Covered OIC-Backed VSCs”), and either have been timely asserted by OIC-Backed Consumers and remain unpaid, or will be timely asserted by OIC-Backed Consumers in the future (A schedule of the Covered OIC-Backed VSCs is attached hereto as Exhibit A.);

d. Pay the OIC Cancellation Charges with respect to any valid cancellations of Covered OIC-Backed VSCs, and either have been timely asserted by OIC-Backed Consumers and remain unpaid, or will be timely asserted by OIC-Backed Consumers in the future; provided however, OIC shall not be responsible for payment of any Cancellation Charges due from any other persons or entities, and nothing herein shall be deemed to be an assumption by OIC of any responsibility to pay any Cancellation Charges due from any other persons or entities; and

e. Release all of its claims against the Trustee and API's bankruptcy estate, including any claims for reimbursement in connection with the repair claims, cancellation claims and GPR Claims that OIC has paid or will pay in the future under the OIC-Backed VSCs.

f. Cooperate with the Trustee's reasonable requests for information as may be necessary in connection with the Trustee's administration of API's bankruptcy estate; provided that, as of the Effective Date, OIC shall have no ongoing reporting requirements to the Trustee.

Provided that an OIC-Backed Consumer can provide reasonably tangible evidence to demonstrate that he or she attempted to provide notice of a claim made under an OIC-Backed VSC in a timely manner pursuant to the terms of the relevant VSC, and provided that the claim is not the subject of Other Trustee Settlements, OIC agrees to treat the claim as timely.

2. Release of Funds in the Reserve Accounts to Dealers. As set forth above, the funds on deposit in the Reserve Accounts (totaling \$2,031,062 as of July 31, 2007) were deposited into those accounts for the purpose of paying valid claims under the OIC-Backed VSCs (the "Reserve Funds"). After API ceased paying valid claims under the OIC-Backed

VSCs, OIC drew on the Letter of Credit and used the LC Funds to pay valid claims. Under this Agreement, OIC will continue to pay claims from the LC Funds rather than the Reserve Funds. Of the LC Funds totaling \$2,700,000, securing API's indemnification obligation to OIC in connection with the OIC-Backed VSCs, the Trustee and OIC have agreed that OIC will retain \$1,750,000 (including those LC Funds already expended by OIC) in payment of OIC's performance under the OIC-Backed VSCs and this Agreement. OIC will return the remaining LC Funds, totaling \$950,000, to API's estate.

In order to reimburse the estate for the use by OIC of the otherwise unencumbered LC Funds, instead of the Reserve Funds, to pay claims, the Trustee will retain as an asset of API's bankruptcy estate \$1,750,000 currently on deposit in the Reserve Accounts, plus the accrued interest earned on the Reserve Accounts. The remainder of funds in the Reserve Accounts, totaling approximately \$281,062, will be allocated *pro rata* among the Reserve Accounts and distributed to the Dealers subject to the terms herein.

Upon receipt of an executed release from a Dealer that sold OIC-Backed VSCs generating the funds on deposit in the Reserve Accounts, the Trustee will remit to such Dealer that Dealer's *pro rata* share of the remaining balance on deposit in the relevant Reserve Account (the "Transferred Funds"). The calculation of each Dealer's *pro rata* distribution hereunder shall be based on the number of active OIC-Backed VSCs generated by each Dealer as of the Petition Date. The release shall be in a form satisfactory to the Trustee in her sole discretion, and will release all of the OIC Parties (as hereinafter defined), the Trustee and the bankruptcy estate of API from all claims of any kind relating in any way to the relevant Reserve Account, any OIC-Backed VSCs and any GPRs sold in connection therewith.

3. Fair and Reasonable Settlement; Compliance with Law. The Parties acknowledge and agree that: (i) the consideration exchanged by the Parties pursuant to this Agreement constitutes a fair and reasonable settlement of the Parties' disputes and of their respective rights and obligations relating to the OIC Policies, and constitutes reasonably equivalent value; (ii) the releases contained in this Agreement comply with the Bankruptcy Code; and (iii) this Agreement in no way voids, annuls or attempts to void or annul the OIC Policies, which, with respect to the Trustee, the Dealers and the OIC-Backed Consumers, have been fully performed.

4. Approval Order. The effectiveness of this Agreement is conditioned on the execution of this Agreement by the Parties, the Bankruptcy Court's entry of an order in the Bankruptcy Case, in form and substance reasonably satisfactory to the Trustee and OIC, approving this Agreement (the "Approval Order"), and the Approval Order becoming final and non-appealable. The Approval Order shall bind all creditors of API and any parties in interest, and each of their successors and assigns, to the terms of this Agreement.

The Trustee shall file a motion (the "Settlement Motion") seeking the entry of the Approval Order within ten business days after execution of this Agreement by the Parties, and shall provide notice of the Settlement Motion to (1) the Office of the U.S. Trustee; (2) the Official Committee of Unsecured Creditors of API; (3) all parties who have requested notice of all pleadings filed in the Bankruptcy Case; (4) all OIC-Backed Consumers; (5) all Dealers that sold OIC-Backed VSCs; and (6) the Attorney General for each state in which OIC-Backed VSCs were sold. In addition, notice of the Settlement Motion will be posted on the official API website maintained by the Trustee in connection with the Bankruptcy Case.

The Trustee will use her reasonable best efforts to obtain the entry of the Approval Order. Such reasonable best efforts will include without limitation: (a) supporting entry of the Approval

Order during all discussions with Dealers, OIC-Backed Consumers, other creditors, and their attorneys; (b) in the Trustee's discretion, filing a written response, in the event any objections to the Settlement Motion are filed with the Bankruptcy Court; and (c) taking all reasonable steps to defend against any appeal, petition, motion or other challenge to the Bankruptcy Court's entry of the Approval Order.

The Approval Order must include factual findings and conclusions of law substantially as follows:

(i) The Agreement is fair and equitable, in the best interests of the estate and its creditors after consideration of (i) the probability of success in any coverage litigation involving the OIC Policies, with due consideration for the uncertainty in fact and law; (ii) the complexity and likely duration of any such coverage litigation and any attendant expense, inconvenience and delay; (iii) the paramount interests of creditors; and (iv) the extent to which the Agreement is the product of arm's-length bargaining and not the product of fraud or collusion; and

(ii) As to all Dealers, OIC-Backed Consumers and all parties in interest, notice of the Agreement was sufficient, and the requirements of Fed. R. Bankr. P. 6004(c) were satisfied.

5. Plan Injunction. In furtherance of this Agreement, the Parties agree that the Trustee will include in any liquidating plan of reorganization, and any proposed order confirming such plan, an injunction that protects OIC against claims other than valid claims under the Covered OIC-Backed VSCs.

The Trustee will use her reasonable best efforts to obtain the confirmation of a plan, and entry of a confirmation order, that contain the injunction described in this section. Such reasonable best efforts will include without limitation: (a) supporting the confirmation of such plan and entry of such order during all discussions with Dealers, OIC-Backed Consumers, other creditors, and their attorneys; (b) in the Trustee's discretion, filing a written response, in the event any objections to the confirmation of such plan or entry of such confirmation order are filed with the Bankruptcy Court;

and (c) taking all reasonable steps to defend against any appeal, petition, motion or other challenge to the Bankruptcy Court's confirmation of such plan or entry of such confirmation order.

6. Release by Trustee and Estate. Except as provided for herein, the Trustee, on behalf of API's bankruptcy estate and its creditors, hereby releases and forever discharges OIC and its parents, and all of its affiliates, subsidiaries and their present and former officers, directors, partners, employees, agents, attorneys, shareholders and their successors, assigns, and other representatives, only in their capacity as such (the "OIC Parties") from liability for any and all claims, controversies, actions, causes of action, liabilities, demands, debts, damages, costs, attorneys' fees, monies due on account, obligations, judgments and liabilities of any kind and nature whatsoever at law or in equity, past or present, in contract, in tort or otherwise, whether or not now or heretofore known, suspected, or claimed against the OIC Parties, arising from or relating to the OIC Policies, to the GPRs, or to any of OIC's agreements with API or its affiliates or the Dealers, including any and all claims under any of the avoidance provisions of the Bankruptcy Code; provided, however, that the OIC Parties do not include Marathon Financial Insurance Co., Inc., RRG, API, or any of their respective affiliates, officers or directors.

7. Release by OIC. Except as provided for herein, the OIC Parties hereby release and forever discharge the Trustee and all of her present and former agents, employees and attorneys and their successors and assigns and other representatives, and the bankruptcy estate of API from liability for any and all claims, controversies, actions, causes of action, liabilities, demands, debts, damages, costs, attorneys' fees, monies due on account, obligations, judgments and liabilities of any kind and nature whatsoever at law or in equity, past or present, in contract, in tort or otherwise, whether or not now or heretofore known, suspected, or claimed against the Trustee or the bankruptcy estate of API, however arising.

8. Trustee's Duty to Cooperate. Notwithstanding the terms of this Agreement, including the releases exchanged in paragraphs 6 and 7 of this Agreement, the Trustee and her representatives, successors, and assigns, will use commercially reasonable efforts to cooperate with OIC's performance of its obligations under paragraph 1 of this Agreement; provided that the Trustee and the bankruptcy estate of API shall not be contractually obligated to OIC to incur any material costs in connection therewith.

The Trustee agrees to provide at least ten business days written notice (sent by e-mail) to OIC through OIC's undersigned counsel, of any destruction or other disposition of the books and records of API together with a reasonable description of those books and records. Prior to the date of the planned disposition, OIC may advise the Trustee that it seeks possession of all or some of the books and records and will promptly take possession of them or assume the expenses of the storage at their location.

9. Indemnification. OIC agrees to hold harmless and indemnify the Trustee and API's bankruptcy estate from and against any and all claims, demands, fines, penalties, damages, obligations, and costs of any nature whatsoever, including the Trustee's attorneys' fees and costs incurred in connection therewith, asserted against the Trustee or API's bankruptcy estate by any OIC-Backed Consumer for any valid and timely repair claims, cancellation charges or GPR Claims asserted under the OIC-Backed VSCs.

10. Additional Documents. Each party agrees to execute and deliver such additional documents and instruments and take such actions as are reasonably necessary to effect the intent and purposes of this Agreement.

11. Applicable Law. This Agreement shall be interpreted and governed by the laws of the State of Illinois without regard to principles of conflicts of law. In the event that this

paragraph is deemed unenforceable in any judicial, arbitration or governmental proceeding, the remaining provisions of this Agreement shall remain in full force and effect.

12. No Admission. Neither this Agreement nor any statement made, action or position taken, or document prepared in connection with the negotiation, execution, or implementation of this Agreement, is, or will be deemed to be or construed as, an admission by any party to this Agreement of any liability, act, or matter or that any claim or defense has or lacks merit.

13. Third Parties. This Agreement shall not be deemed to give any right or remedy to any third party whatsoever unless said right or remedy is specifically and explicitly granted to such third party by the terms hereof.

14. Notices. Any notices or consents required or permitted by this Agreement shall be in writing and shall be deemed delivered if delivered in person or if sent by facsimile or certified mail, postage prepaid, return receipt requested, as follows, unless such address is changed by written notice hereunder:

If to OIC:

Stephen J. Toth
Ohio Indemnity Company
250 East Broad Street, 10th Floor
Columbus, Ohio 43215-3708
Phone: 614-220-5230
Fax: 614-228-5553

With a copy to:

Bruce L. Wald
Tishler & Wald, Ltd.
200 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
Phone: 312-876-3800
Fax: 312-876-3816

If to the Trustee:

Frances Gecker
Frank/Gecker LLP
325 North LaSalle Street, Suite 625
Chicago, IL 60610
Phone: 312.276.1400
Fax: 312.276.0035

15. Trustee's Authority. The Trustee warrants that:

(a) She has been advised by counsel in the negotiation, execution and delivery of this Agreement;

(b) She is duly authorized to enter into, execute, deliver and perform this Agreement, subject to the approval of the Bankruptcy Court; and

(c) She has voluntarily, with full knowledge and without fraud, coercion, duress or undue influence of any kind, entered into this Agreement.

16. OIC'S Authority. OIC warrants that:

(a) It has been advised by counsel in the negotiation, execution and delivery of this Agreement; and

(b) It is duly authorized to enter into, execute, deliver and perform this Agreement; and

(c) It has voluntarily, with full knowledge and without fraud, coercion, duress or undue influence of any kind, entered into this Agreement.

17. Waiver. Commencing on the Effective Date, each party hereto shall have the right at any time to enforce the provisions of this Agreement in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of such party in refraining from so doing at any time or times. The failure of any party at any time or times to enforce its rights under such provisions shall not be construed as having created a custom in any way or manner

contrary to specific provisions of this Agreement or as having in any way or manner modified or waived the same.

18. Validity of Agreement. In the event that any substantive provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the Parties may jointly elect to: (i) rescind the Agreement, voiding it *ab initio*, with each Party returned to its original rights and positions as if the Agreement had never existed; (ii) enforce and be bound by the remainder of the Agreement; or (iii) modify the Agreement by such substituted provisions as the Parties may reasonably agree.

19. Assignment. This Agreement shall be binding upon all successors and assigns of each of the Parties to the Agreement.

20. Entire Agreement. This Agreement contains the entire agreement between the Parties as respects its subject matter. All discussions and agreements previously entertained between the Parties concerning the subject matter of the Agreement are merged into this Agreement. This Agreement may not be altered, modified or amended in whole or in part, nor any of its provisions waived, in any way, except by an instrument in writing, signed by all Parties hereunder.

21. Counterparts. This Agreement and any amendment hereto may be executed in several counterparts and by each party on separate counterpart, each of which, when so executed and delivered shall be an original, but all of which together shall constitute but one and the same instrument. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. A facsimile signature shall be treated as an original signature.

22. Jurisdiction. The Bankruptcy Court shall retain jurisdiction to interpret and enforce the provisions of this Agreement and the Approval Order in all respects and further to hear and determine any and all disputes between the Trustee and OIC and any other person; provided, however, that in the event the Bankruptcy Court abstains from exercising or declines to exercise such jurisdiction or is held to be without jurisdiction with respect to the Agreement or the Approval Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon, and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter. In the event the Bankruptcy Case has been closed, there shall be a right to have this case reopened upon *ex parte* motion or application for such purposes as provided in this paragraph.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and date first written above.

OHIO INDEMNITY COMPANY

**FRANCES GECKER, as Chapter 11 Trustee
of AUTOMOTIVE PROFESSIONALS, INC.**

By: _____

By: _____

Name:

Name:

Title:

Title: