

CAUSE NO. 2015-27321-7

IN THE MATTER OF
THE MARRIAGE

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IN THE DISTRICT COURT OF

WENDY MARIE MEIGS
AND
JODY NEAL MEIGS

HARRIS COUNTY, TEXAS

257TH JUDICIAL DISTRICT

WENDY MARIE MEIGS

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v.

JODY NEAL MEIGS, MICHAEL
JOHNSTON, FRANCESCA LOPEZ,
ROBIN LUKE, SCRIPTS
PHARMACY, STRADEN-SCHADEN,
INC., THE JOHNSTON GROUP, AND
ASYNTRIA, INC.

THIRD PARTY ACTION

COMPROMISE AND SETTLEMENT AGREEMENT

This Compromise and Settlement Agreement (“Agreement”) is dated effective as of the ___ day of November 2015 (the “Effective Date”), and is by and between Wendy Marie Meigs (“Meigs”), Michael Johnston (“Johnston”) and Asyntria, Inc. (“Asyntria”). Johnston and Asyntria are sometimes being referred to herein collectively as the “Asyntria Parties” and together with Meigs all of the foregoing are referred to herein as the “Parties” to this Agreement.

RECITALS

WHEREAS, disputes arose between Meigs, on the one hand, and Johnston and Asyntria, on the other hand, regarding *inter alia* causes of action arising from non-maritally created fiduciary duties and misappropriation of community assets;

WHEREAS, Meigs filed the captioned Third Party Action (the “Harris County Lawsuit”) against Johnston and Asyntria as well as against Jody Neal Meigs and Francesca Lopez, and other parties;

WHEREAS, the disputes between Meigs, on the one hand, and Johnston and Asyntria, on the other hand, which are described in detail in the pleadings and other papers filed by such parties in the Harris County Lawsuit, including without limitation any claims, counterclaims, cross claims and third-party claims, are referred to herein as the “Dispute;”

WHEREAS, the Parties now desire to compromise and settle all matters between themselves, arising from or relating to the subject matter of the Dispute, without any admission of fault or liability, on the terms and conditions set forth in this Agreement; and

WHEREAS, the Parties do not desire to compromise any of their respective claims, counterclaims, cross claims or third-party claims against Jody Meigs or Francesca Lopez or anyone who is not a Party to this Agreement.

CONSIDERATION

NOW THEREFORE, in consideration of the Initial Payment and the mutual releases, promises, agreements and covenants herein contained, and other good and valuable consideration, the receipt (with the exception of the Initial Payment) and sufficiency of which is hereby expressly acknowledged, the Parties agree as follows:

1. **SETTLEMENT SUM.**

(a) **Payments.** In exchange for the transfer of Meigs' stock in Asyntria, Inc. to Johnston or Asyntria within five (5) days from Court approval, the third party respondents, Johnston and Asyntria, jointly, will pay to Meigs the aggregate sum of four (4%) percent of the total gross revenues of Asyntria, Inc., which sum will be paid according to the following schedule:

January 1 – June 30 of each year	Paid by October 31 st of the same year;
July 1 – December 31 of each year	Paid by April 30 of the following year.

These payments run for the life of Meigs or thirty (30) years, whichever is longer. In the event Meigs obtains title to Jody Meigs' stock in Asyntria, Inc., she shall transfer that stock to Johnston or Asyntria within thirty (30) days in exchange for an additional one and one-half (1.5%) royalty payment.

Such Payments will be in resolution of claims and will be paid in accordance with the schedule listed above. The Parties acknowledge that the claims arise from, and this settlement represents, proceeds related to the property settlement and division in the divorce between Meigs and Jody Meigs and its tax treatment (the responsibility of Meigs) shall be based on such acknowledgement. The above scheduled Payments shall be paid either by certified check payable to Wendy Meigs at

Delivery of the Payments must occur on or before 5:00 p.m. in accordance with the above referenced schedule. In the event these Payments are not timely delivered in accordance with the above referenced schedule, then Meigs agrees to give Asyntria one (1) ten (10) day notice of default and opportunity to cure, with another twenty (20) days, one (1) per each calendar year.

An Agreed Judgment shall be entered with regard to the Third Party Action reciting the terms of the Settlement Agreement, a take nothing judgment against all named Third Party Respondents, except Jody Meigs and Francesca Lopez.

Mike Johnston and Asyntria will remain jointly liable for the Payments provided herein above.

During the shorter of the term of the royalty payments to be made under this Agreement, or three (3) years following the effective cessation of business of Asyntria, Inc., a mutual non-compete exists between Johnston and Meigs covering the current scope of Asyntria, Inc. worldwide consisting of: (a) member based organization for pharmacy technicians, (b) continuing education for pharmacists, pharmacy technicians, nurses, and pedorthists, and (c) manufacture and sale of simulated drugs for training use.

Meigs shall notify EEOC of resolution of her claim against Asyntria, Inc. within five (5) days of court approval of this Agreement.

The Temporary Restraining Order previously entered in this case is vacated and the bond released without further order of the Court. Asyntria, Inc. will provide, in confidence, the first two (2) pages of its tax return within thirty (30) days of filing same.

2. RELEASES.

A. Meigs Releases. Meigs, individually and on behalf of her heirs, executors, administrators, legal representatives, successors and assigns, hereby RELEASES, ACQUITS and FOREVER DISCHARGES each of Johnston, Asyntria and their respective current, former and future companies, firms, funds, asset pools and legal entities (whether incorporated or not), affiliates, subsidiaries, Insiders, contractors and subcontractors, transaction counterparts, insurers, brokers, parents, agents and representatives, and all of their respective past, present and future officers, agents, employees, directors, managers, members, shareholders, parent companies, subsidiaries, spouses, heirs, executors, administrators, legal representatives, successors and assigns (excluding, however, Jody Meigs and Francesca Lopez), including without limitation Robin Luke, Scripts Pharmacy, Straden-Schaden, Inc. and The Johnston Group and each of their parents, subsidiaries or affiliates, (collectively, the "Meigs Released Parties") from all known and unknown, past, present and future claims, demands, rights and causes of action, whether direct, indirect, vicarious or otherwise, whether or not relating to the subject matter of the Dispute, the Harris County Lawsuit, or otherwise, that have accrued or may ever accrue to them, including, without limitation, those sounding in contract or in tort or somewhere in between and those arising from any statute or regulation (including, without limitation, those arising from simple, sole, concurrent or gross negligence, express or implied warranties, statutes, regulations, nonfeasance, malfeasance, fraud, intentional conduct, malice, or false, misleading, deceptive or unconscionable conduct, or any combination thereof), that are now or may in the future be recognized by any local, state, national or foreign law, including, without limitation, by statute, regulation or judicial decision, for past, present, future, known or unknown losses, damages, or remedies of any kind, including, without limitation, all actual, consequential, statutory, exemplary or punitive damages, penalties of any kind, attorney's fees, costs of court or prejudgment or post-judgment interest, that are based on conduct, events or occurrences up through the Effective Date, and agrees that such claims, demands, rights and causes of action are cancelled and are fully satisfied. NOTWITHSTANDING THE FOREGOING, nothing in this paragraph shall release any claims arising against Jody Meigs and Francesca Lopez.

B. **Johnston Party Releases.** Each of Johnston and Asyntria, on behalf of themselves and their respective current, former and future companies, firms, funds, asset pools and legal entities (whether incorporated or not), affiliates, subsidiaries, Insiders, contractors and subcontractors, transaction counterparts, insurers, brokers, parents, agents and representatives, and all of their respective past, present and future officers, agents, employees, directors, managers, members, shareholders, parent companies, subsidiaries or affiliates (including without limitation Robin Luke, Scripts Pharmacy, Straden-Schaden, Inc. and The Johnston Group and each of their parents, subsidiaries and affiliates), spouses, heirs, executors, administrators, legal representatives, successors and assigns (but excluding, however, Jody Meigs and Francesca Lopez) (the "Johnston Releasing Parties"), hereby RELEASES, ACQUITS and FOREVER DISCHARGES Meigs, her heirs, executors, administrators, legal representatives, successors and assigns (collectively, the "Johnston Released Party") from all known and unknown, past, present and future claims, demands, rights and causes of action, whether direct, indirect, vicarious or otherwise, whether or not relating to the subject matter of the Dispute, the Harris County Lawsuit, or otherwise, that have accrued or may ever accrue to them, including, without limitation, those sounding in contract or in tort or somewhere in between and those arising from any statute or regulation (including, without limitation, those arising from simple, sole, concurrent or gross negligence, express or implied warranties, statutes, regulations, nonfeasance, malfeasance, fraud, intentional conduct, malice, or false, misleading, deceptive or unconscionable conduct, or any combination thereof), that are now or may in the future be recognized by any local, state, national or foreign law, including, without limitation, by statute, regulation or judicial decision, for past, present, future, known or unknown losses, damages, or remedies of any kind, including, without limitation, all actual, consequential, statutory, exemplary or punitive damages, penalties of any kind, attorney's fees, costs of court or prejudgment or post-judgment interest, that are based on conduct, events or occurrences up through the Effective Date, and agrees that such claims, demands, rights and causes of action are cancelled and are fully satisfied. NOTWITHSTANDING THE FOREGOING, nothing in this paragraph shall release any claims arising under or for material breach of this Agreement. STILL FURTHER, FOR CLARITY, nothing in this paragraph shall release any claims of any kind against Jody Meigs and Francesca Lopez.

3. **COVENANTS NOT TO SUE.**

A. **By Meigs.** Meigs covenants and agrees not to sue or otherwise bring any suit or claim against any of the Meigs Released Parties and their successors, other than an action to enforce the terms of this Agreement solely against Johnston and Asyntria, with any court or in any arbitration or other dispute resolution tribunal against any of the Meigs Released Parties for any and all claims released by this Agreement. Meigs further covenants and agrees that she will be solely liable for any and all attorneys' fees and expenses of the Meigs Released Party or Parties incurred as a result of any such suit or claim brought against such released party in violation of this section.

B. **By Johnston Parties.** Each of the Johnston Releasing Parties covenants and agrees not to sue or otherwise bring any suit or claim, other than to enforce the terms of this Agreement, with any court or in any arbitration or other dispute resolution tribunal against any of the Johnston Released Parties for any and all claims released by this Agreement. Each of the

Johnston Releasing Parties further covenants and agrees that he/she/it will be solely liable for any and all attorneys' fees and expenses of the DGS Released Party or Parties incurred as a result of any such suit or claim that he/she/it brings against such released party in violation of this section.

4. **COURT NOTIFICATION.** This Agreement is subject to the Court authorizing the transfer of shares in Asyntria, Inc. by Wendy Meigs as contemplated herein and the actual transfer, which court approval the parties shall diligently pursue.

This Agreement is made subject to notice to the Harris County Court, Judge Judy Warne, subject to the parties' duty, if any, to inform the Court of same. To the extent the Court strikes down or invalidates this Agreement or any portion of this Agreement, the Parties agree that this Agreement shall be null and void *ab initio*. Further, because the Parties currently have at least 60 days after dismissal of the Harris County Lawsuit for lack of jurisdiction within which to re-file the claims in a court of proper jurisdiction notwithstanding any statutes of limitations that did not lapse before the original filing of the claims, counterclaims, cross claims or third party claims in the Harris County lawsuit, the Parties agree that in such event the statute of limitations on any such claims and issues will be extended for a period of 60 days after the event of the Court striking down or invalidating this Agreement. In addition, the Parties agree that in the event the Court strikes down or invalidates this Agreement or any portion thereof, the parties shall, notwithstanding the nonsuit with prejudice being filed in the Harris County Lawsuit pursuant hereto, be deemed to have only nonsuited such claims and issues without prejudice and may re-file their claims and issues in a court of proper jurisdiction, and further agree that none of the Parties shall be entitled to raise defenses of collateral estoppel, judicial estoppel or res judicata or similar defenses with respect to the re-filed claims or issues, as those defenses are expressly waived in that event.

5. **DISMISSALS.** Upon delivery of the shares of stock and within seven (7) calendar days of the Effective Date, all Parties will cause their attorneys to file a Notice of Partial Dismissal with Prejudice in the form attached hereto as **Exhibit B**, dismissing, with prejudice, the claims of Meigs against Johnston, Asyntria, Robin Luke, Scripts Pharmacy, Straden-Schaden, Inc., and The Johnston Group, and the claims of Johnston and Asyntria against Meigs, including all claims, cross claims and counterclaims that were or could have been brought by such dismissing parties against the other(s) arising from or relating to the subject matter of the Lawsuit.

6. **NO ADMISSION OF FAULT.** No one admits fault or liability by executing this Agreement.

7. **AUTHORITY.** Each signatory hereto warrants and represents that he/she/it has authority and capacity to bind the party or parties for whom that signatory acts.

8. **REPRESENTATIONS AND WARRANTIES.** Each signatory to this Agreement and the party for which such signatory acts in connection with this Agreement warrants and represents that:

A. The claims, suits, rights and/or interests which he/she/it releases herein are owned by him/her/it, have not been assigned, transferred or sold, and are free of encumbrances.

B. He/she/it has entered into same freely and without duress after having consulted with professionals of his or her choice and relies solely and completely upon his/her/its own judgment together with such professional(s)' advice, and that, with the benefit of such professional advice, he/she/it has fully informed himself/herself/itself of the contents, terms, conditions, and effects of this Agreement, having read and understood this document and having had its contents fully disclosed and explained to him/her/it by his/her/its attorneys, and understands the same.

C. No promise or representation of any kind has been expressed or implied to him/her/it by any other party released herein or by anyone acting for him, except as is expressly stated in this Agreement. No Party is relying upon any promise or representation outside of the terms of this written Agreement.

D. He/she/it is not relying upon any advice of the other parties released herein, or of their counsel or representatives, as to the legal or tax consequences of this Agreement. Further, he/she/it hereby releases the other parties released herein and those representing them from any and all liability and obligations of any nature whatsoever that may hereafter arise by reason of the legal or tax consequences of this Agreement being other than as anticipated by him/her/it.

E. He/she/it understands that this is a final release of the parties released herein and that no sums of money, except as expressed herein, will ever be paid by the parties released herein, or anyone on their behalf, as a result of the conduct, conditions, events, and damages listed or referred to, specifically or generally in this Agreement.

F. He/she/it has entered into this Agreement without reliance on any representations, covenants, promises or agreements of any of the Parties (other than those expressly set forth herein), and that he/she/it has entered into this Agreement based completely on his/her/its own investigation.

G. Each of the Johnston Parties further represents and warrants that all necessary consents and approvals have been obtained for Johnston and Asyntria to enter into this Agreement and that all required directors, officers and shareholders of Asyntria and Johnston have authorized and approved this Agreement and the execution hereof. In the event this representation and warranty is false or breached, all releases given herein or pursuant hereto by Wendy Marie Meigs shall be null and void *ab initio*.

Notwithstanding Subsections A through G of this Section 8, Meigs expressly relies on the representations and agreements regarding holding Meigs' portions of the total gross revenues of Asyntria in trust as set forth in Section 1(a) above.

9. **VENUE AND LAW.** This Agreement is made and performable in Harris County, Texas and shall be construed in accordance with the laws of the State of Texas. Any and all disputes arising under this Agreement are subject to the exclusive jurisdiction and venue of the State District Courts of Harris County, Texas.

10. **ATTORNEY'S FEES.** In the event of a default in the payment obligations hereunder, Meigs shall be entitled to recover reasonable and necessary attorney's fees in connection with any legal proceedings to recover amounts due hereunder.

11. **MULTIPLE COUNTERPARTS.** This Agreement may be executed in multiple counterparts and delivery of the signatures may be by PDF, facsimile or other electronic signature or electronic delivery of signature.

12. **NO ORAL MODIFICATION.** No amendment, modification, or alteration of this agreement shall be effective unless same is in writing and signed and dated by the parties to this agreement.

13. **FINAL AGREEMENT.** This Agreement, along with all other documents created and executed to effectuate the same, supersede all prior agreements and negotiations between the Settling Parties, and there are no agreements, promises or covenants, oral, written or otherwise, between the Settling Parties relating to the subject matter hereof unless contained herein.

SIGNED AND AGREED to as of the Effective Date.

WENDY MARIE MEIGS

Date: _____

MICHAEL JOHNSTON, individually

Date: _____

ASYNTRIA, INC.

Michael Johnston, President
Date: _____

STRADEN-SCHADEN, INC.

Michael Johnston, President
Date: _____

SCRIPTS PHARMACY

Michael Johnston, Manager

Date: _____

THE JOHNSTON GROUP

Michael Johnston, Manager

Date: _____

ROBIN LUKE, individually

Date: _____