

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made by, between, and among the following undersigned parties:

The Federal Deposit Insurance Corporation as Receiver for First Chicago Bank & Trust, Chicago, Illinois ("FDIC-R"), and J. Christopher Alstrin ("Alstrin"), John G. Eck ("Eck"), Matthew M. Gambs ("Gambs"), James E. Goodwin ("Goodwin"), Frank J. Kross ("Kross"), Benjamin Reyes ("Reyes"), William J. Ruh ("Ruh"), Lowell I. Stahl ("Stahl"), and J. Mikesell Thomas ("Thomas"), (collectively the "Settling Individuals"), and Arch Insurance Company ("Insurer"). The FDIC-R, the Settling Individuals, and the Insurer may be referred to herein as "Party" and collectively as the "Parties."

RECITALS

WHEREAS:

Prior to July 8, 2011, First Chicago Bank & Trust ("Bank") was a depository institution organized and existing under the laws of Illinois;

On July 8, 2011, the Illinois Department of Financial and Professional Regulation closed the Bank and pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-R succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets.

Among the assets to which the FDIC-R succeeded were all of the Bank's claims, demands, and causes of action against its former directors, officers, and employees arising from the performance, nonperformance, and manner of performance of their respective functions, duties and acts as directors, officers, and employees of the Bank;

The FDIC-R has asserted claims against the Settling Individuals, each of whom served at various times as a director and/or officer of the Bank. The Settling Individuals deny liability for the claims.

The Insurer issued to Castle Creek Capital LLC ("Castle Creek") an Asset Management

(b)(4) Liability Policy numbered [] for the period from September 19, 2010 to

September 19, 2011 ("Policy"), which insured principals of Castle Creek who also served as directors and/or officers of the Bank, including Ruh and Thomas, according to the terms, provisions, and conditions of the Policy. Ruh and Thomas have asserted claims for coverage under the Policy and the Insurer has reserved its rights to deny coverage under the Policy for claims asserted by FDIC-R against Ruh and Thomas.

The undersigned Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, each with the other, as follows:

SECTION I: Payment to FDIC-R

A. As an essential covenant and condition to this Agreement, the Settling Individuals agree to pay the FDIC-R the sum of ONE MILLION FOUR HUNDRED AND FIFTEEN THOUSAND DOLLARS (U.S. \$1,415,000.00), and the Insurer agrees to pay the FDIC-R the sum of SIX MILLION FIVE HUNDRED AND EIGHTY FIVE THOUSAND DOLLARS (U.S. \$6,585,000.00) for a total of EIGHT MILLION DOLLARS (U.S. \$8,000,000.00) ("Settlement Funds") on or before June 20, 2014 (the "Payment Date").

B. The Settling Individuals and the Insurer shall deliver the Settlement Funds to the FDIC-R by direct wire transfer into the account designated below:

BANK: Federal Home Loan Bank of New York

(b)(4) ROUTING #:

FOR CREDIT TO: FDIC National Liquidation Account

(b)(4) ACCOUNT #:

OBI: FIN 10374; First Chicago Bank & Trust, Chicago, Illinois; Contact: Robert L. Wainess, 703-516-5285; Professional Liability (37100); DIF Fund;

(b)(4) Asset No.

In the event that the Settlement Funds are not delivered to the FDIC-R (or its counsel) by the Payment Date, interest shall accrue against the non-fully-paying Party or Parties on all unpaid amounts at the rate of 5% per annum from the day following the Payment Date until the date of payment. However, if said Settlement Funds are not delivered to the FDIC-R by the Payment Date, as a result of the FDIC-R's failure to execute this Agreement, no interest shall accrue until five days after the FDIC-R executes the Agreement.

C. If the FDIC-R does not receive the Settlement Funds in full on or before the Payment Date, then the FDIC-R, in its sole discretion, shall have the right at any time prior to receipt of the Settlement Funds in full (including all accrued interest) to:

1. Extend until no later than July 8, 2014 the period of time for the payment of the Settlement Funds, including interest accruing from the date determined by subsection A above, through the date of payment at a rate calculated in accordance with 26 U.S.C. § 6621(a)(3); or

2. Terminate this Agreement no later than July 8, 2014, refund any partial payment of the Settlement Funds received by the FDIC-R to the Party or Parties who made such partial payment or payments, and institute an action on the FDIC-R's claims. The Settling Individuals and Insurer further agree to waive any defense based on any statute of limitations that would bar any of the FDIC-R's claims and waive all objections, defenses, claims or counterclaims, and covenant and agree not to assert any objections, defenses, claims or counterclaims that did not exist or were otherwise unavailable as of the date this Agreement was fully executed. The Settling Individuals and Insurer agree that their waiver of any defense based on any statute of limitations survives any termination of this Agreement resulting from the failure to pay the Settlement Funds.

Any extension of time under Section I.C.1 for delivery of the Settlement Funds or acceptance of a portion of the Settlement Funds shall not prejudice the FDIC-R's rights to take any of the actions set forth in Section I.C.2 at any time prior to receipt of the Settlement Funds (including all accrued interest) in full.

SECTION II: Releases

A. The FDIC-R's Releases.

Upon receipt of the Settlement Funds in full and except as provided in Section II.D., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges:

1. The Settling Individuals and their respective heirs, executors, trustees, administrators, representatives, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to the FDIC-R, that arise from or relate to, the performance, nonperformance, or manner of performance of the Settling Individuals' respective functions, duties and actions as officers and/or directors of the Bank; and

2. The Insurer, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions and causes of action, direct or indirect, in law or in equity, that arise from or relate to the Policy with respect to the Bank. As part of this release of the Insurer, the FDIC-R agrees that any interest it may have under the Policy with respect to the Bank is extinguished.

3. All other persons covered under the Policy who also served as directors and/or officers of the Bank (collectively, the "Covered Persons") and their respective heirs, executors, trustees, administrators, representatives, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to the FDIC-R, that arise from or relate to, the performance, nonperformance, or manner of performance of the Covered Persons' respective functions, duties and actions as directors, officers and/or employees of the Bank. This release shall be null and void as to any Covered Person if such Covered Person asserts any claim against the FDIC-R.

B. The Settling Individuals' Release.

Effective simultaneously with the releases granted in Section II.A. above, the Settling Individuals, on behalf of themselves individually, and their respective heirs, executors, trustees,

administrators, agents, representatives, attorneys, successors, and assigns, hereby release and discharge the FDIC-R, and its employees, officers, directors, agents, representatives, attorneys, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to, the Bank or to the performance, nonperformance, or manner of performance of the Settling Individuals' respective functions, duties and actions as officers and/or directors of the Bank.

C. The Insurer's Release.

Effective simultaneously with the releases granted in Section II.A. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates and reinsurers, and their successors and assigns, hereby releases and discharges the FDIC-R, and its employees, officers, directors, agents, representatives, attorneys, successors, and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to the Policy.

D. Exceptions from Releases by FDIC-R.

1. Notwithstanding any other provision of this Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if this Agreement had not been executed, any claims or causes of action:

a. Against the Settling Individuals or any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note or indebtedness payable or owed by them to FDIC-R, the Bank, other financial institutions, or any other person or entity, including without limitation any such claims acquired by FDIC-R as successor in interest to the Bank or any person or entity other than Bank; and

b. Against any person or entity not expressly released by the FDIC-R in this Agreement.

2. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing, or compromising the jurisdiction and authority of the Federal Deposit Insurance Corporation in the exercise of its

supervisory or regulatory authority or to diminish its ability to institute administrative enforcement or other proceedings seeking removal, prohibition, or any other relief it is authorized to seek pursuant to its supervisory or regulatory authority against any person.

3. Notwithstanding any other provision of this Agreement, this Agreement does not purport to waive, or intend to waive, any claims that could be brought by the United States through the Department of Justice, the United States Attorney's Office for any federal judicial district, or any other department or agency of the United States as defined by 18 U.S.C. § 6. In addition, the FDIC-R specifically reserves the right to seek court-ordered restitution pursuant to the relevant provisions of the Mandatory Victims Restitution Act, 18 U.S.C. §§ 3322 and 3663 et. seq., if appropriate.

SECTION III: Waiver of Dividends and Proceeds from Litigation

To the extent, if any, that the Settling Individuals or any of them are or were shareholders of the Bank or its holding company and by virtue thereof are or may be entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank or proceeds in any litigation that has been or could be brought against the Federal Deposit Insurance Corporation in any capacity or against the United States based on or arising out of, in whole or in part, the closing of the Bank, or any alleged acts or omissions by the Federal Deposit Insurance Corporation in any capacity, the United States government, or any agency or department of the United States government in connection with the Bank, its conservatorship, or receivership, the Settling Individuals and each of them hereby knowingly assign to the FDIC-R any and all rights, titles, and interest in and to any and all such dividends, payments, or other distributions, or proceeds.

SECTION IV: Representations and Acknowledgements

A. Authorized Signatories. All of the undersigned persons represent and warrant that they are Parties hereto or are authorized to sign this Agreement on behalf of the respective Party, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the

undersigned Parties and their respective heirs, executors, trustees, administrators, representatives, successors and assigns.

B. Advice of Counsel. Each Party hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that Party by his, her, or its counsel.

C. Financial Disclosure Representation. Each Settling Individual has submitted financial information to the FDIC-R including the Personal Financial Statement, form FDIC 7600/01 (9-05), and/or similar information and herein affirms that his/her financial information is true and accurate as of the date it was submitted. The FDIC-R has no obligation to independently verify the completeness or accuracy of that financial information.

SECTION V: Reasonable Cooperation

A. The Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing, or causing their agents and attorneys to do, whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to perform the terms of this Agreement.

B. The Settling Individuals agree to cooperate fully with the FDIC-R in connection with any action required under this Agreement. Such cooperation shall consist of:

1. Producing all documents requested by the FDIC-R, without the necessity of subpoena, as determined by the FDIC-R, in its sole discretion, to be relevant to the Bank;
2. Appearing as requested by the FDIC-R at reasonable times and places for interviews regarding facts, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank;
3. Testifying as requested by the FDIC-R, without the necessity of a subpoena, in any matter relevant to the Bank, as determined by the FDIC-R;
4. Signing truthful affidavits, regarding any matter, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank.

SECTION VI: Other Matters

A. No Admission of Liability. The undersigned Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims and defenses, that this Agreement is not an admission or evidence of liability or infirmity by any of them regarding any claim or defense, and that the Agreement shall not be offered or received in evidence by or against any Party except to enforce its terms.

B. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Parties subscribed thereto upon the execution by all Parties to this Agreement.

C. Choice of Law. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of Illinois.

D. Notices. Any notices required hereunder shall be sent by registered mail, first class, return receipt requested, and by email, to the following:

If to the FDIC-R:

Steven K. White, Esq.
Stinson Leonard Street LLP
1775 Pennsylvania Avenue NW, Suite 800
Washington, DC 20006
Telephone: (202) 728-3024
Facsimile: (202) 572-9963

(b)(6)

Robert L. Wainess, Esq.
Counsel, Professional Liability Unit
FDIC Legal Division
3501 Fairfax Drive, B7034
Arlington, VA 22226
Telephone: (703) 516-5285
Facsimile: (703) 516-5445

(b)(6)

If to the Settling Individuals:

John K. Villa, Esq.
Williams & Connolly LLP
725 Twelfth Street, NW
Washington, DC 20005
Telephone: (202) 434-5117
Facsimile: (202) 434-5029

(b)(6)

Counsel for J. Christopher Alstrin

Eugene J. Schiltz, Esq.
The Coleman Lawfirm
77 West Wacker Drive, Suite 4800
Chicago, IL 60601
Telephone: (312) 444-1000
Facsimile: (312) 444-1028

(b)(6)

Counsel for John G. Eck

Jeffery M. Heftman, Esq.
Gozdecki, Del Giudice, Americus, Farkas & Brocato LLP
One East Wacker, Suite 1700
Chicago, IL 60601
Telephone: (312) 782-5010
Facsimile: (312) 782-4324

(b)(6)

Counsel for Matthew M. Gambs

Richard M. Alexander, Esq.
Arnold & Porter LLP
555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5728
Facsimile: (202) 942-5999

(b)(6)

*Counsel for Lowell I. Stahl, James E. Goodwin,
and Frank J. Kross*

Brian E. Hurley, Esq.
Brian E. Hurley & Associates
111 West Washington Street, Suite 1320
Chicago, IL 60602
Telephone: (312) 641-9770
Facsimile: (312) 641-9774

(b)(6)

Counsel for Benjamin Reyes

David M. Murphy, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Telephone: (212) 403-1272
Facsimile: (212) 403-2272

(b)(6)

Counsel for William J. Ruh

Thomas P. Vartanian, Esq.
Dechert LLP
1900 K Street, NW
Washington, DC 20006
Telephone: (202) 261-3439
Facsimile: (202) 261-3333

(b)(6)

Counsel for J. Mikesell Thomas

If to the Insurer:

Arch Insurance Company
Executive Assurance Claims
10909 Mill Valley Road, Suite 210
P.O. Box 542033
Omaha, NE 68154

(b)(6)

with an e-mail courtesy copy to:

Jeremy S. Salzman, Esq.

(b)(6)

E. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein and supersedes any prior agreements or understandings. This Agreement may

not be amended or modified, nor may any of its provisions be waived, except in writing signed by the Parties bound thereby, or by their respective authorized attorney(s), or other representative(s).

F. Titles and Captions. All section titles and captions contained in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

G. No Confidentiality. The undersigned Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to the Federal Deposit Insurance Corporation's applicable policies, procedures, and other legal requirements.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

**FEDERAL DEPOSIT INSURANCE
CORPORATION As Receiver for First
Chicago Bank & Trust**

Date:

June 18, 2014

By:



(b)(6)

Title: Counsel, FDIC Legal Division

Print Name: Robert L. Wainess

J. CHRISTOPHER ALSTRIN

Date:

By:

JOHN G. ECK

Date:

By:

MATTHEW M. GAMBS

Date:

By:

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Date: _____

By: _____

Title: Counsel, FDIC Legal Division

Print Name: Robert L. Wainess

Date: JUNE 18, 2014

J. CHRISTOPHER ALSTRIN

By: _____

(b)(6)

JOHN G. ECK

Date: _____

By: _____

MATTHEW M. GAMBS

Date: _____

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By: _____

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Title: Counsel, FDIC Legal Division

Print Name: Robert L. Wainess

J. CHRISTOPHER ALSTRIN

Date: _____

By: _____

JOHN G. ECK

Date: _____

By: _____

MATTHEW M. GAMBS

Date: 6-18-2014

By:

(b)(6)

Date: 6/18/2014

JAMES E. GOODWIN

(b)(6)

FRANK J. KROSS

Date: _____

By: _____

BENJAMIN REYES

Date: _____

By: _____

WILLIAM J. RUH

Date: _____

By: _____

LOWELL I. STAHL

Date: _____

By: _____

J. MIKESELL THOMAS

Date: _____

By: _____

ARCH INSURANCE COMPANY

Date: _____

By: _____

Title: _____

Print Name: _____

JAMES E. GOODWIN

Date: _____

By: _____

FRANK J. KROSS

Date: 6/18/14

By: (b)(6)

BENJAMIN REYES

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Print Name: _____

JAMES E. GOODWIN

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By: _____

FRANK J. KROSS

Date: _____

By: _____

BENJAMIN REYES

Date: June 17, 2014

By:

(b)(6)

WILLIAM J. RUH

Date: _____

By: _____

LOWELL I. STAHL

Date: _____

By: _____

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WILLIAM J. RUH

Date: _____

By: _____

LOWELL I. STAHL

Date: _____

By: _____

J. MICHAEL THOMAS

Date: 6/18/14

By:

(b)(6)

ARCH INSURANCE COMPANY

Date: _____

By: _____

Title: _____

Print Name: _____

JAMES E. GOODWIN

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By: _____

FRANK J. KROSS

Date: _____

By: _____

BENJAMIN REYES

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By: _____

WILLIAM J. RUH

Date: _____

By: _____

LOWELL I. STAHL

Date: _____

By: _____

J. MIKESELL THOMAS

Date: _____

By: _____

ARCH INSURANCE COMPANY

Date: 6/19/14

By: (b)(6)

Title: AVP - Executive Assurance Claims

Print Name: Jeremy S. Salzman, Esq.