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SETTLEMENT AGREEMENT

This Settlement Agreement ("this Agreement") dated effective as of September 8, 2009 (the "Effective Date") is entered into by and between AEG Facilities, Inc.; Craig Leipold; DGB Investments, Inc.; Federal Deposit Insurance Corporation, as Receiver for Security Pacific Bank; Heritage Bank of Commerce; Modern Bank, N.A.; and Valley Community Bank (each a "Claimant" and, collectively, "Claimants" and each Claimant that executes this Settlement Agreement shall be referred to as a "Settling Claimant"), on the one hand, and D. Jonathan Merriman ("D. J. Merriman"), Rob Ford ("Ford"), Merriman Curhan Ford Group, Inc. ("MCF") and Merriman Curhan Ford & Co., Inc. ("MCF Co."), collectively referred to as the "Merriman defendants," on the other hand. The Settling Claimants and the Merriman defendants are collectively referred to herein as "the Parties."

RECITALS OF FACT

WHEREAS, MCF is a Delaware corporation whose shares are listed on the NASDAQ, whose subsidiary, MCF Co. is a broker-dealer regulated by Financial Industry Regulatory Authority ("FINRA") and the Securities and Exchange Commission ("SEC").

WHEREAS, D. Jonathan Merriman is one of the founders of MCF and currently serves as the Chief Executive Officer of MCF, and Rob Ford also is one of the founders of MCF and currently serves as the head of MCF Services Group.

WHEREAS, Claimants have asserted various claims for damages against the Merriman defendants arising out of loans made by Claimants to William J. Del Biaggio III ("Del Biaggio") and/or Sand Hill Capital Partners III, LLC ("Sand Hill") totaling approximately \$43.5 million (the "Claims"), as more particularly set forth in Schedule A to this Settlement Agreement.

WHEREAS, the Merriman defendants deny liability for the Claims, but are willing to agree to resolve such Claims so as to eliminate the risks, burdens and expenses of litigation.

(b)(4)

WHEREAS, XL Specialty Insurance Company ("XL") issued Management Liability and Company Reimbursement Policy No. [redacted] to MCF (the "Management Liability Policy"), and Federal Insurance Company ("FIC"), issued Financial Institutions Securities Dealer Blanket Bond, Policy No. [redacted] to MCF Co. (the "Fidelity Policy"), which Management Liability Policy and Fidelity Policy may be available to provide indemnification and cover certain other costs of the Merriman defendants related to the Claims.

(b)(4)

WHEREAS, on or about January 14, 2009, MCF filed suit against XL (the "XL Insurance Litigation") seeking coverage for, *inter alia*, some of the Claims as well as MCF's defense fees and costs incurred in defending against some of the Claims and related matters.

WHEREAS, XL has asserted that it has no obligation to provide a defense or indemnification to any party in connection with any aspect of the Claims.

WHEREAS, the Claimants have made a demand for settlement of the Management Liability Policy, on which XL refused to pay out.

WHEREAS, the Merriman defendants and the Claimants desire to reach a global settlement of any and all claims of each Claimant on the terms and conditions set forth herein, and preserve certain rights for the benefit of the Claimants.

WHEREAS, concurrently with the execution of this Agreement by at least five or more Settling Claimants and the Merriman defendants, MCF Co. shall assign all of its rights under the Management Liability Policy and Fidelity Policy and any of the claims against XL and/or FIC arising out of or relating to underlying civil claims and government investigations to MCF.

AGREEMENT

NOW, THEREFORE, in view of the foregoing, the Merriman defendants and the Settling Claimants hereby agree to the following:

1. **The Settlement Amount.**

a. **Initial Cash Payment.** The Merriman defendants shall pay, and shall be jointly and severally liable to pay, to Settling Claimants within twelve (12) business days of the execution of this Agreement by the Merriman defendants and five or more Settling Claimants, a cash payment to each Settling Claimant in an amount equal to 10% of the value of that Claimant's Claim, as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages (as defined below)), up to an aggregate payment of \$4,300,000 (the "Initial Cash Payment").

b. **Payment of Initial Insurance Litigation Proceeds.** D. J. Merriman, Ford and MCF shall pay, and shall be jointly and severally liable to pay a further \$10,000,000, which amount, however, shall be paid only from the Initial Insurance Litigation Proceeds (as defined in Paragraph 2.b.(1) below), if any. Said proceeds shall be in addition to the Initial Cash Payment, and shall be paid to and divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), and in the manner described in Paragraph 2.b.(1) below, which such amount shall be secured by and payable only from the Initial Insurance Litigation Proceeds (collectively with the Initial Cash Payment, the "Cash Payment"). For the avoidance of doubt, if there are no Initial Insurance Litigation Proceeds or if the Initial Insurance Litigation Proceeds are insufficient to fund the remaining \$10,000,000, the Merriman defendants shall have no obligation to pay any portion of the remaining \$10,000,000; it being understood that the Settling Claimants shall look solely to the Management Liability Policy and/or the Fidelity Policy and/or any litigation related thereto for recovery and payment of the remaining \$10,000,000.

c. **Supplemental Cash Payment.** Any Supplemental Insurance Litigation Proceeds, as defined in Paragraph 2.b.(2) below, shall be payable to the Settling Claimants in cash in the manner described in Paragraph 2.b.(2) below, to be divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages).

d. Cash Payments and Issuance of Warrants When Less than All Claimants Settle.

This Agreement shall be effective only after all of the Merriman defendants and at least five Claimants execute this Agreement on or before September 8, 2009. If, by the later of September 8, 2009 or 10 days after this Agreement is fully executed by the parties, less than all of the Claimants have executed this Agreement, then only the Settling Claimants, along with any other Claimant that has given written notice of its intention to participate in this Agreement upon proper authorization by its governing body, shall receive the Cash Payments set forth in Paragraphs 1.a. and b. above and the Warrants set forth in Paragraph 1.e. below, and the Settlement Percentage of the non-settling Claimants shall be allocated and distributed equally amongst the Settling Claimants and the Claimants that have given written notice of intent to participate in this Agreement and the Settlement Percentages shall be modified accordingly ("Adjusted Settlement Percentages"). If any Claimant gives notice of intent to participate in the settlement, but thereafter does not execute this Agreement within 30 days of giving such notice, then that Claimant shall be deemed a non-settling Claimant, and the Settlement Percentage of such Claimant shall be allocated and distributed equally amongst the Settling Claimants.

e. Warrants.

(1) Within twelve (12) business days of the execution of this Agreement by the Merriman defendants and five or more Settling Claimants, MCF shall issue Warrants to purchase an aggregate of 1,538,461 shares of the common stock of MCF to the Settling Claimants, to be divided proportionally amongst the Claimants pursuant to the Settlement Percentage of each Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages). Each Warrant will represent the right to purchase one share of common stock of MCF ("Warrant Shares") and shall be in the form attached as Exhibit A. Each Settling Claimant and MCF shall execute that certain Investor's Rights Agreement in the form attached hereto as Exhibit B (the "IRA").

(2) Further, to the extent that MCF and/or MCF Co. receive payments under Paragraphs 2(b)(1)(b) or (c), MCF shall issue Warrants, to be divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Settling Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), as follows:

(a) For payments received under Paragraph 2(b)(1)(b), a number of Warrants to purchase MCF common stock equal to the dollar amount of such payment divided by the exercise price of said Warrants, which such exercise price to be equal to the five day average of the closing price of the common stock of MCF (such five days to start on the business day after the receipt of the aforementioned funds), and on such terms and conditions identical to the Warrants issued pursuant to Paragraph 1(e)(1), with the exception that the exercise period of the Warrant shall be extended by the period of time from the Effective Date until the payment under Paragraph 2(b)(1)(b) is received by MCF, minus one year.

(b) For payments received under Paragraph 2(b)(1)(c), a number of Warrants to purchase MCF common stock equal to one-third of the dollar amount of such payment divided by the exercise price of said Warrants (calculated in accordance with paragraph 1(e)(2)(a) above), and on such terms and conditions identical to the Warrants issued pursuant to Paragraph 1(e)(1), with the exception that the exercise period shall be extended by the period of time from the Effective Date until the payment under Paragraph 2(b)(1)(c) is received by MCF, minus one year.

(c) In no event, however, shall the Warrant exercise period for these two potential Warrants grants be less than the period provided for with respect to the Warrants issued pursuant to Paragraph 1(e)(1).

(d) Prior to the issuance of any Warrants issuable pursuant to this Paragraph 1(e), any Settling Claimants may assign its right to receive Warrants to any other Settling Claimant. Notice of such assignment shall be provided by a signed writing addressed to MCF, signed by both the assigning Claimant and the Claimant to whom the right to receive is assigned.

(e) For those Warrants made available pursuant to Paragraph 1(e)(2)(a) and 1(e)(2)(b), such Warrants shall be made available within 12 business days after the fifth day used to calculate the five day average specified in those Paragraphs.

2. **Pursuit of Insurance Litigation and Payment of Insurance Proceeds.** MCF, D. J. Merriman and Ford (collectively, the "MCF Co-Defendants"), shall use their reasonable best efforts to obtain a recovery in the XL Insurance Litigation. The MCF Co-Defendants may also pursue, but shall not be required to pursue, recovery under the Fidelity Policy; but, upon the written demand by the Oversight Committee, shall assign any and all rights of MCF and/or MCF Co. under the Fidelity Policy to the Settling Claimants and shall cooperate fully and completely with such Settling Claimants' prosecution of the Fidelity Insurance Litigation. The XL Insurance Litigation and any litigation necessary to obtain coverage for the Claims under the Fidelity Policy, as well as any insurance settlement negotiations related thereto, shall be referred to herein collectively as the "Insurance Litigation." For purposes of this provision, "reasonable best efforts" shall include, among other things, that MCF shall pay reasonable and timely expenses of the XL Insurance Litigation, up to an aggregate of \$200,000 ("Aggregate Legal Expenses"), of which \$100,000 shall be deposited within twelve (12) business days of the execution of this Agreement in the Client Trust Account of MCF Counsel (as hereinafter defined), with additional deposits in increments of \$25,000 due from MCF any time the Client Trust Account falls below \$50,000 until such time as MCF has deposited the Aggregate Legal Expenses. The MCF Co-Defendants shall cooperate fully and completely with the prosecution of the Insurance Litigation, including, but not limited to, making witnesses and documents available in pursuit of the Insurance Litigation, and directing its employees, officers and directors to perform such reasonable assistance as insurance counsel deems appropriate to maximize any potential recovery.

a. The MCF Co-Defendants shall retain legal counsel, and from time to time, the MCF Co-Defendants may associate additional legal counsel or substitute other legal counsel (collectively, "MCF Counsel"), to represent the MCF Co-Defendants in the XL Insurance Litigation on a contingent fee basis, subject to the approval of the Oversight Committee, described below. The terms and conditions of the contingent fee agreement between the MCF Co-Defendants and MCF Counsel, and any amendments thereto (collectively, the "Contingent Fee Agreement") shall be subject to the approval of the Oversight Committee.

b. The MCF Co-Defendants hereby assign a first priority security interest in, and shall distribute to, the Settling Claimants the proceeds of the Insurance Litigation, whether received by settlement or judgment, in the manner and in the amounts described below:

(1) Initial Insurance Litigation Proceeds.

"Initial Insurance Litigation Proceeds" is defined to include any and all proceeds of the Insurance Litigation up to and including the amounts necessary to pay the Settling Claimants the

full amount of the Cash Payments described in Paragraph 1.a. and b. above. The Initial Insurance Litigation Proceeds shall be assigned and distributed in the manner and amounts set forth in this Paragraph 2.b.(1), until such time that the MCF Co-Defendants have paid the full Cash Payment described in Paragraph 1.b. above:

(a) First, to MCF Counsel pursuant to the terms and conditions of the Contingent Fee Agreement;

(b) Second, as to any amounts up to \$2,500,000, then 95% to the Settling Claimants, to be divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Settling Claimant as set forth in Schedule A, (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), and the remaining 5% to MCF;

(c) Third, as to any amounts in excess of \$2,500,000, up to and including \$5,000,000, then 85% to the Settling Claimants, to be divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Settling Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), and the remaining 15% to MCF; and

(d) Fourth, as to any amounts in excess of \$5,000,000, then 75% to the Settling Claimants, to be divided proportionally amongst the Settling Claimants pursuant to the Settlement Percentage of each Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), and the remaining 25% to MCF.

(2) "Supplemental Insurance Litigation Proceeds"

"Supplemental Insurance Litigation Proceeds" shall be defined to include any and all proceeds on the Insurance Litigation in excess of the Initial Insurance Litigation Proceeds. The Supplemental Insurance Litigation Proceeds shall be distributed 50% to the Settling Claimants pursuant to the Settlement Percentage of each Claimant as set forth in Schedule A (or, in the event that five or more, but less than all, of the Claimants execute this Agreement, in accordance with the Adjusted Settlement Percentages), and the remaining 50% to MCF.

c. MCF shall remain solely responsible for any amounts owing, as of the Effective Date, to any law firms, accountants, or other consultants who have represented MCF and/or MCF Co. in connection with, among other things, the Claims, claims against the Management Liability Policy or the Fidelity Policy, or negotiation of this Settlement Agreement. Under no circumstances shall proceeds of the Insurance Litigation be used to pay any of these liabilities of MCF, except out of amounts paid to MCF pursuant to Paragraph 2.b.(1) above.

d. Insurance Litigation Oversight Committee. The MCF Co-Defendants shall form an insurance litigation oversight committee comprised of two members of MCF management and of representatives of no less than five Settling Claimants, and as to which each Settling Claimant

shall be entitled to participate (the "Oversight Committee"). The Parties acknowledge Claimants' common interest with the MCF Co-Defendants in the Insurance Litigation because, among other things, of Claimants' security interest in the proceeds of the Insurance Litigation and, therefore, the Claimants are a necessary party to any attorney-client communication subject to the execution of a confidentiality agreement by each Settling Claimant that requires such Settling Claimant to preserve the confidences and work product related to the Parties' common interest in the Insurance Litigation. The Oversight Committee shall, upon reasonable notice and not more frequently than once every thirty (30) days, be given reasonable access to the work product and materials related to the Insurance Litigation provided to the MCF Co-Defendants by MCF Counsel so long as, in the judgment of MCF Counsel, Claimants continue to have a common interest with the MCF Co-Defendants in the litigation because of Claimants' security interest in the proceeds of the Insurance Litigation. Therefore, the activities contemplated by this paragraph will not constitute a waiver of the attorney client privilege. Subject to such determination by MCF Counsel, the Oversight Committee shall also be entitled to participate in regularly scheduled meetings with MCF Counsel and shall be permitted to be kept promptly informed of the work of MCF Counsel to ensure that any and all actions in the MCF Litigation are diligently pursued. The Oversight Committee shall act by majority vote, and all parties shall abide by the majority vote of the Oversight Committee with respect to the prosecution or settlement of the Insurance Litigation. The Oversight Committee shall select one of its members to be the lead contact with MCF Counsel. For avoidance of doubt, it is the intention of the Parties that the Settling Claimants will not be clients of retained contingency counsel.

e. Security Interests and Financing Statement. In order to secure the payment and performance of the MCF Co-Defendants' obligations under this Agreement, the MCF Co-Defendants hereby grant a first priority security interest in favor of the Settling Claimants in (a) any and all proceeds of the Insurance Litigation and the Fidelity Policy up to the amount of the Claims, excepting any payments due to MCF Counsel under paragraph 2.b(1)(a); and (b) any and all accounts, contract rights, claims, chose in action, and commercial tort claims held by each of the MCF Co-Defendants against XL, including, but not limited, to the Insurance Litigation and/or FIC with respect to the Fidelity Policy, excepting any payments due to MCF counsel under paragraph 2.b(1)(a). Upon execution of this Agreement, MCF shall provide a UCC-1 financing statement listing all of the Settling Claimants, which shall perfect the security interests granted hereunder, and MCF shall cause its counsel to file and promptly forward receipted copies of the statement to Settling Claimants at the time the MCF Co-Defendants make the Initial Cash Payment.

3. **MCF Covenant Against More Favorable Settlements.** If less than all Claimants execute this Agreement, then the Merriman defendants warrant and agree that they will not later settle with any such non settling Claimant on terms more favorable than provided for in this Settlement Agreement, unless the Merriman defendants first provide further consideration necessary to ensure that the Claimants entering into this Settlement Agreement obtain at least as favorable terms as any later settling Claimant. Failure of the Merriman defendants to provide such additional consideration shall be considered a material breach of this agreement, and each Claimant may elect, in its sole discretion, to rescind the agreement, or to enforce, jointly and severally against the Merriman defendants, the promise to provide additional consideration contained in this Paragraph.

4. **Intentionally deleted.**

5. **Solvency.** MCF warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and California Civil Code Sections 3439.04(a)(2)(B) and 3439.05, and that it shall remain solvent following its payment to the Claimants of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to the Merriman defendants, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which any of the Merriman defendants are or became indebted, on or after the date of this transfer, all within the meaning of 11 U.S.C. § 548(a)(1) and California Civil Code Section 3439.04(a)(1).

6. **Bankruptcy.** If, within 91 days of the Effective Date of this Agreement or any payment made under this Agreement, MCF or MCF Co. commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of the debts of MCF or MCF Co., or seeking to adjudicate MCF or MCF Co. as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for MCF or MCF Co. or for all or any substantial part of the assets of MCF or MCF Co., then the Merriman defendants agree as follows:

a. The obligations of MCF and MCF Co. under this Agreement may not be avoided pursuant to 11 U.S.C. §§ 547 or 548, or California Civil Code Sections 3439 et. seq., and neither MCF nor MCF Co. shall argue or otherwise take the position in any such case, proceeding, or action that: (i) the obligations of the Merriman defendants under this Agreement may be avoided under 11 U.S.C. §§ 547 or 548, or California Civil Code Sections 3439 et. seq.; (ii) MCF or MCF Co. was insolvent at the time this Agreement was entered into, or became insolvent as a result of the Cash Payment made to the Claimants hereunder; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to the Merriman defendants.

b. If the Merriman defendants' obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, each of the Claimants, at their sole option, may rescind the releases in this Agreement, and bring any claim, action, or proceeding against any or all of the Merriman defendants for the claims that would otherwise be covered by the releases provided in Paragraph 8 below. The Merriman defendants agree that (1) any such claims, actions, or proceedings brought by the Claimants shall not be subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) or any other applicable injunction or stay as a result of the action, case, or proceeding described in the first clause of this Paragraph, and that the Merriman defendants hereby irrevocably and absolutely waive the automatic stay of 11 U.S.C. § 362(a) or any other applicable injunction or stay to the extent necessary to permit the Settling Claimants to enforce their rights, remedies and claims under this Agreement; and (2) that the Merriman defendants

shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such claims, actions, or proceedings that are brought by the Claimants within 180 calendar days of written notification to the Merriman defendants that the releases herein have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on the Effective Date of the Agreement.

c. The Merriman defendants acknowledge that their agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

7. **Dismissal of State Court Litigation.** Each Claimant that has filed a suit against the Merriman defendants and/or the MCF Parties (as defined in Paragraph 8(a)(2)) in respect of its Claim, as more particularly described on Schedule A, shall execute a Dismissal of the State Court Litigation against the MCF Parties, if any, without prejudice (the "State Court Dismissal"). Each Claimant shall deliver the State Court Dismissal to counsel for MCF within five (5) business days of receiving the Initial Cash Payment of the Settlement Amount described in Paragraph 1.a.

8. **Mutual Release.** For the purposes of this Mutual Release:

a. Terms:

(1) "Claimant Parties" means each Claimant and its directors, officers, employees, agents, affiliates, and professionals.

(2) "MCF Parties" means the Merriman defendants, together with, in the case of MCF and MCF Co., each of its current directors, officers and employees. The MCF Parties do not include, however, David Scott Cacchione.

(3) The "Subject Claims" means any and all claims of whatsoever type or nature that in any manner related to the matters identified in the Recitals or the relationship between the Claimant Parties and the MCF Parties existing on or before the Effective Date. The Subject Claims do not include the obligations of the Parties under this Agreement

b. Releases:

(1) The MCF Parties hereby release and forever discharge Claimant Parties from any and all Subject Claims.

(2) Effective upon execution of this agreement by each of the Merriman defendants, and payment to each Claimant of the Initial Cash Payment portion of the Settlement Amount, Claimant Parties shall release and forever discharge the MCF Parties from any and all Subject Claims; it being understood that in no event shall the Claimant Parties' release be construed to release and discharge claims such Claimants may have against third parties, including, but not limited to, claims against Del Biaggio, Sand Hill and others.

Each of the Parties has considered the possibility that he or it may not now fully know the number or magnitude of all the Subject Claims, which he or it has or may have against the other party hereto, but nevertheless intends to assume the risk that he or it is releasing such unknown

claims, and agrees that this Mutual Release is a full and final release of any and all Subject Claims and/or Subject Claims, as the case may be, and expressly waives the benefits of Section 1542 of the California Civil Code and all similar statutes, which Section 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.

c. It is understood and agreed that this is a compromise settlement of disputed claims, and that this Mutual Release shall not be construed as an admission of liability by any of the Parties hereto.

9. **No Assignment.** All Parties represent and warrant that each is the only person or entity who, to its knowledge, has any interest in any claims, causes of action, costs or demands herein released and that none of such claims, causes of action, costs or demands, nor any part thereof, have been assigned, granted or transferred in any way to any person, persons, entity or entities.

10. **Representation and Warranties.** The Merriman defendants and each Settling Claimant represents and warrants that (a) each has freely and voluntarily entered into this Settlement Agreement, (b) that no representations or promises of any kind other than as contained in this Settlement Agreement have been made by any party to induce them to enter into this Settlement Agreement, and (c) they have been fully advised by their attorneys concerning their rights and have further been advised by their attorneys as to the terms and effects of this Settlement Agreement. Each Settling Claimant represents and warrants that Schedule A accurately reflects their respective alleged claim and the related case number.

11. **Interpretation.** This Agreement is to be construed simply and fairly, and not strictly in favor of or against MCF, MCF Co., D. J. Merriman, Ford, or any Settling Claimant. This Agreement was prepared and negotiated jointly by the Parties. This Agreement may be modified or amended only in writing signed by all Parties.

12. **No Indemnification.** Nothing in this Settlement Agreement shall be interpreted as a promise or an agreement to indemnify.

13. **Governing Law.** This Settlement Agreement shall be governed by the laws of the State of California without regard to California's choice of law analysis, except to the extent the laws of the United States are applicable.

14. **Attorneys' Fees.** Each party shall be responsible for the payment of his or its own attorneys' fees and costs, and all of their expenses in connection with the matters referred to in this Settlement Agreement, provided however, that this paragraph shall not affect any obligations that may be owed to MCF counsel under a contingent fee agreement. Nevertheless, in any action or proceeding to enforce this Settlement Agreement, the prevailing party shall be entitled to his, her or its attorneys' fees and costs.

15. **Sole and Only Agreement.** The Parties hereby agree that this instrument (and its schedules) constitutes the sole and only agreement between the Parties with respect to the subject matter hereof and correctly sets forth the rights, duties and obligations of each to the other as of its date. The terms of this Settlement Agreement are contractual and not mere recitals. This Settlement Agreement is executed without reliance upon any representation by any person concerning the nature or extent of injuries or legal liability therefor, and the Parties hereto have carefully read and understand the contents of this Settlement Agreement and sign the same as their own free act. Any modification of this Agreement shall require the unanimous written consent of all Claimants.

16. **Successors and Assigns.** This Settlement Agreement shall inure to the benefit of and bind the successors, assigns, heirs, executors and administrators of the Parties.

17. **Captions.** The captions of this Settlement Agreement are for convenience only and are not a part of this Settlement Agreement and do not in any way limit or amplify the terms and provisions of this Settlement Agreement and shall have no effect on its interpretation.

18. **Counterparts.** This Settlement Agreement may be executed in counterparts, by either an original signature or signature transmitted by facsimile transmission, pdf or other similar process and each copy so executed shall be deemed to be an original and all copies so executed shall constitute one and the same agreement.

19. **Notice.** Any notice required or permitted to be given by this Agreement shall be in writing and shall be deemed given (1) when delivered in person, (2) when dispatched by facsimile or electronic mail transfer (confirmed in writing by postage prepaid first class air mail simultaneously dispatched), (3) when sent by internationally-recognized overnight courier service (with receipt confirmed by such overnight courier service), or (4) when sent by registered or certified mail, to the other party at the address of such parties set forth below or at such other address as such party may from time to time specify in writing to the other party in accordance with this Paragraph 19.

To Claimants:

AEG Facilities, Inc.
Attn: Ted Fikre and Dan Beckerman
800 West Olympic Blvd, Suite 305,
Los Angeles, CA 90015

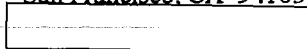
(b)(4),(b)(6)



With a copy to:

Meryl Macklin, Esq.
Holme Roberts & Owen
560 Mission St., 25th Fl
San Francisco, CA 94105

(b)(4),(b)(6)



Craig Leipold
555 Main Street
Suite 500
Racine, WI 53403

With a copy to:

David Rosenbloom
McDermott Will & Emery LLP
224 W. Monroe, Suite 4400
Chicago, IL 60606

DGB Investments, Inc.
40 Fox Hill Road
Woodside, CA 94062

With a copy to:

Michael H. Steinberg, Esq.
Sullivan & Cromwell LLP
1888 Century Park East, Suite 2100
Los Angeles, CA 90067

Federal Deposit Insurance Corporation,
as Receiver for Security Pacific Bank
Bob J. Rogers, Esq.
1601 Bryan Street, Room 15068
Dallas, TX 75201

With a copy to:

Andrew S. Pauly
Greenwald, Pauly, Foster & Miller
1299 Ocean Avenue, Suite 400
Santa Monica, CA 90401

Heritage Bank of Commerce
150 Almaden Blvd.
San Jose, CA 95113
Attn: Mr. Michael Ong, Executive Vice
President/Chief Risk Officer

(b)(4),(b)(6)

Fax: [Redacted]
[Redacted]

(b)(4),(b)(6)

With a copy to:

Richard A. Rogan, Esq.
Jeffer, Mangels, Butler & Marmaro
Two Embarcadero Center, 5th Floor
San Francisco, CA 94111

(b)(4),(b)(6)

Fax: [Redacted]
[Redacted]

(b)(4),(b)(6)

Anthony Burke, President
Modern Bank, N.A.
667 Madison Avenue
New York, NY 10075

With a copy to:

Jonathan Weinberg
Modern Bank, NA
667 Madison Avenue
New York, NY 10075

Daniel K. Slaughter
Stein & Lubin LLP
600 Montgomery Street, 14th Floor
San Francisco, CA 94111

(b)(4),(b)(6)

Greg Hickel
Executive Vice President
Chief Credit Officer
Valley Community Bank
P.O. Box 1497
Pleasanton, CA 94566

With a copy to:

Bruce E. Copeland
Nixon Peabody LLP
One Embarcadero Center
18th Floor
San Francisco, CA 94111-3600

To MCF, MCF Co., D.J.
Merriman and/or Ford:

Peter Coleman, CFO & COO
Merriman Curhan Ford
600 California Street, 5th Floor
San Francisco, CA 94108

With a copy to:

General Counsel
Merriman Curhan Ford
600 California Street, 5th Floor
San Francisco, CA 94108

Notice of change of address shall be given by written notice in the manner detailed in this Paragraph 19.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AFG Facilities Inc.

Name: Ted Fikre
Its: Vice President

Craig Leipold

DGB Investments, Inc.

Name:
Its:

Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank

Name:
Its:

Heritage Bank of Commerce

Name:
Its:

Modern Bank

Name:
Its:

Valley Community Bank

Name:
Its:

(b)(6)

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

(b)(6)



Craig Leipold

DGB Investments, Inc.

Name:

Its:

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name:

Its:

Heritage Bank of Commerce

Name:

Its:

Modera Bank

Name:

Its:

Valley Community Bank

Name:

Its:

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

Name:
Its:

Craig Leipold

DGB Investments, Inc.

Name:
Its:

*D. Bertram
President*

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name:
Its:

Heritage Bank of Commerce

Name:
Its:

Modern Bank

Name:
Its:

Valley Community Bank

Name:
Its:

(b)(6)

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

Name:
Its:

Craig Leipold

DGB Investments, Inc.

Name:
Its:

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name: **J. SCOTT TAYLOR**
Its: **ATTY-IN-FACT**

Heritage Bank of Commerce

Name:
Its:

Modern Bank

Name:
Its:

Valley Community Bank

Name:
Its:

(b)(6)

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

Name:
Its:

Craig Leipold

DGB Investments, Inc.

Name:
Its:

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name:

(b)(6)

Heritage Bank of Commerce

Name: **Michael R. Ong**
Its: **Executive Vice President**

Modern Bank

Name:
Its:

Valley Community Bank

Name:
Its:

(b)(6)

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

Name:
Its:

Craig Leipold

DGB Investments, Inc.

Name:
Its:

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name:
Its:

Heritage Bank of Commerce

Name:
Its:

Modern Bank, N.A.

[Redacted Signature]

(b)(6)

Name: **LEWIS J. GOVERMAN**
Its: *Chief Credit Officer*

Valley Community Bank

Name:
Its:

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Settlement Agreement as of the date first set forth above.

CLAIMANTS:

AEG Facilities, Inc.

Name:
Its:

Craig Leipold

DGB Investments, Inc.

Name:
Its:

**Federal Deposit Insurance Corporation, as
Receiver for Security Pacific Bank**

Name:
Its:

Heritage Bank of Commerce

Name:
Its:

Modern Bank

Name:
Its:

Valley Community Bank

(b)(6)

Name: *GREG J. HICKEL*
Its: *E.V.P. / CCO*

(b)(6)

MCF:

Merriman Curhan Ford Group, Inc.

(b)(6)

[Redacted]

Peter Coleman, its CFO & COO

(b)(6)

[Redacted]

D. Jonathan Merriman

(b)(6)

[Redacted]

Rob Ford

MCF Co.

Merriman Curhan Ford & Co., Inc.

By: Peter Coleman, its CFO & COO

(b)(6)



Schedule A

<u>Claim</u>	<u>Value of Original Claim</u>	<u>State Court Litigation Case No.</u>	<u>Settlement Percentage</u>
DGB INVESTMENTS, INC	\$3,000,000	(SANTA CLARA SUPERIOR COURT 1-08-CV-113472	<u>6.88%</u>
CRAIG LEIPOLD.	\$10,000,000	(SANTA CLARA SUPERIOR COURT 109-cv-150502	<u>22.95%</u>
HERITAGE BANK OF COMMERCE	\$4,327,073	(SANTA CLARA SUPERIOR COURT 1-08-CV-113746	<u>9.93%</u>
MODERN BANK, N.A.	\$10,000,000	(SANTA CLARA SUPERIOR COURT 1-08-CV-113894	<u>22.95%</u>
VALLEY COMMUNITY BANK	\$4,250,000	(SANTA CLARA SUPERIOR COURT 1-08-CV-114394	<u>9.75%</u>
AEG FACILITIES, INC.	\$7,000,000	(SANTA CLARA SUPERIOR COURT 1-08-CV-114297	<u>16.06%</u>
FDIC, AS RECEIVER FOR SECURITY PACIFIC BANK	\$5,000,000	LOS ANGELES SUPERIOR COURT SC-098431	<u>11.48%</u>
TOTAL	\$43,577,073		<u>100%</u>

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