

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 31st day of May, 2012, by, between, and among the following undersigned parties:

The Federal Deposit Insurance Corporation, as Receiver of Downey Savings and Loan Association, FA, and the Federal Deposit Insurance Corporation, in its corporate capacity (collectively, the "FDIC"); and

Maurice McAlister ("McAlister"), Daniel Rosenthal, John Gatzke, Thomas Prince, Cheryl Olson, Brent McQuarrie, Lester Smull, Michael Abrahams, James Hunter, Jane Wolfe, and Katherine E. Finnell, as Trustee of the Finnell Trust, certain former directors and officers of Downey Savings and Loan Association FA (the "Directors & Officers"); and

Zurich American Insurance Company ("Zurich"), St. Paul Mercury Insurance Company ("Travelers"), and Axis Surplus Insurance Company ("Axis") (collectively the "Insurers").

The FDIC, the Directors & Officers, and the Insurers are referred to collectively in this Agreement as the "Parties."

### RECITALS

WHEREAS:

Prior to November 21, 2008, Downey Savings and Loan Association, FA ("Downey" or the "Bank") was a federally insured depository institution organized and existing under the laws of California.

On November 21, 2008, the Bank was closed by the Office of Thrift Supervision and pursuant to 12 U.S.C. § 1821(c), the FDIC was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC as receiver 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 as receiver maintains it succeeded were any and all

of the Bank's claims, demands, and causes of actions 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 and/or officers of the Bank. The FDIC maintains that it has certain claims against the Directors & Officers for negligence, gross negligence and breaches of fiduciary duties that caused the Bank to incur losses.

Certain directors' and officers' liability policies were issued by the Insurers that insured the Directors & Officers of the Bank according to the terms, provisions and conditions of each policy. Those policies were issued by National Union/Chartis (Policy number 599-65-69); Zurich (Policy number DOC 9040332 00) (the "Zurich Policy"); Travelers (Policy number 594CM2003 (the "Travelers Policy"); and AXIS (Policy number ENN715070/01/2007) (the "Axis Policy") (collectively the "Insurance Policies"). The Directors & Officers have made claims under the Insurance Policies. The Insurers have reserved their rights under the Insurance Policies for claims asserted by the FDIC against the Directors & Officers.

The Directors & Officers deny any wrongdoing and have agreed to enter into this settlement 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 others, as follows:

#### **SECTION I: Payment to the FDIC**

##### **A. Insurance.**

The Insurers will pay to the FDIC all insurance proceeds currently remaining under the Insurance Policies, less unpaid legal fees, costs and expenses including unpaid legal invoices; and less the additional legal fees, costs and expenses to be incurred in connection with this settlement ("Remaining Insurance Proceeds"). As of May 15, 2012, the Remaining Insurance Proceeds were approximately \$28,400,000. Subject to receiving no less than five business days notice from the FDIC that the Other Personal Contribution payment described below has been made, the Insurers will pay to the FDIC all Remaining Insurance Proceeds by June 29, 2012, by

check or wire transfer to the following bank and account:

**BANK:** Federal Home Loan Bank of New York  
**ROUTING #:** 0260-0973-9  
**FOR CREDIT TO:** FDIC National Liquidation Account  
**ACCOUNT #:** 1076010  
**OBI:** FIN 10023; Downey S&LA, Newport Beach, CA;  
**Contact:** Kevin Wheelwright; 703-516-5196; Professional Liability (37100);  
DIF Fund, Asset # 10023000002

Specifically, Zurich will pay to the FDIC the sum of \$8,419,725.35 which will fully exhaust the Zurich Policy; Travelers will pay to the FDIC the sum of \$10 million which will fully exhaust the Travelers Policy; and AXIS will pay to the FDIC the sum of \$9,800,000.00, which constitutes the Remaining Insurance Proceeds less estimated unpaid legal fees, costs and expenses of \$200,000.00. AXIS will pay the reasonable defense costs incurred by defense counsel through the consummation of the settlement. All defense cost invoices shall be submitted no later than July 31, 2012, and paid no later than August 31, 2012. Axis will pay the balance of its limits under the AXIS Policy to the FDIC within 30 days after the last defense costs payment is made, or no later than September 30, 2012. Upon such payment, the AXIS Policy will be fully exhausted.

**B. Additional Personal Cash Contribution.**

1. McAlister will make an additional cash payment to the FDIC of one million nine hundred twenty-nine thousand three hundred seventy-five dollars (\$1,929,375) (the "McAlister Personal Contribution"). The McAlister Personal Contribution shall be paid in two installments: four hundred eighty-two thousand, three hundred forty-three dollars and seventy-five cents (\$482,343.75) (the "Initial Payment") shall be paid by check or wire transfer to the bank and account identified in Section I.A. above by no later than June 15, 2012; the remaining balance of one million four hundred forty-seven thousand, thirty-one dollars and twenty-five cents (\$1,447,031.25), plus interest (the "Final Payment"), shall be paid by check or wire transfer to the bank and account identified in Section I.A. above by no later than August 27, 2012.

McAlister shall pay interest on the Final Payment, at the rate of one percent (1.00 %) per annum, calculated daily on the basis of a three hundred sixty five (365) day year, for each day after June 15, 2012 to the date that Final Payment is made.

2. The Directors & Officers other than McAlister (the "Other Directors & Officers") will make an additional cash payment to the FDIC of one million seven hundred forty-five thousand six hundred twenty-five dollars (\$1,745,625) (the "Other Personal Contribution") by June 15, 2012 by check or wire transfer to the bank and account identified in Section I.A. above. The Other Personal Contribution shall only be made by certain of the Other Directors & Officers.

3. The McAlister Personal Contribution and the Other Personal Contribution are in addition to the Remaining Insurance Proceeds referred to in Section 1.A. When the full amount of the Remaining Insurance Proceeds and the full amount of the Other Personal Contribution is timely received by the FDIC, those funds shall not be refundable or returnable and the Releases described below shall become effective as set forth below.

C. Payment by Check.

Where payment by check is permitted in this Agreement, the check shall be made payable "FDIC as Receiver for Downey Savings and Loan Association, FA, (10023)," and shall be sent via Fed Ex or UPS overnight courier to the following address.

Kevin W. Wheelwright  
Professional Liability Unit  
Federal Deposit Insurance Corp. – Legal Division  
3501 Fairfax, VS-B-7022  
Arlington, VA 22226

**SECTION II: Releases**

A. Release of Directors & Officers by the FDIC.

1. Subject to the reservations contained in Section II.H. below, upon the full and complete satisfaction of the conditions set forth in Sections II.A.1.a. and

II.A.1.b., the FDIC, for itself and its successors and assigns, releases each of the Other Directors & Officers, their heirs, executors and assigns, and Insured Releasees (as defined below) from any and all claims, demands, obligations, damages and causes of action, direct or indirect, in law or equity, that the FDIC has or may have, whether known or unknown, including claims for breaches of fiduciary duty, common negligence or gross negligence, arising out of or relating to the Other Directors & Officers' acts or omissions as former employees, directors, officers, trustees, comptrollers, or governors of Downey, and, as set forth below, the FDIC waives the rights and benefits of California Civil Code section 1542, after full and complete satisfaction of all the following conditions:

- a. The FDIC receiving full and complete payment of the Remaining Insurance Proceeds referred to in Section I.A.; and
- b. The FDIC receiving full and complete payment of the Other Personal Contribution referred to in Section I.B. The Parties agree that the Other Directors & Officers may have up to June 15, 2012 to make the Other Personal Contribution payment to the FDIC. Notwithstanding anything herein to the contrary, the Other Directors & Officers must make payment of the Other Personal Contribution referred to in Section I.B. to the FDIC on or before June 15, 2012, else be in default of this Agreement.

"Insured Releasees" is defined as Other Directors & Officers or any past officer, director, trustee, comptroller, governor or employee of Downey or of any of its former subsidiaries, or any of their lawful spouses or domestic partners. Excepted from "Insured Releasees" are McAlister, the Chapter 7 bankruptcy estate of Downey Financial Corp. and the Chapter 7 Trustee, or his successor trustee.

2. Subject to the reservations contained in Section II.H. below, upon the full and complete satisfaction of the conditions set forth in Sections II.A.2.a and II.A.2.b., the FDIC, for itself and its successors and assigns, releases McAlister, his heirs, executors and assigns, from any and all claims, demands, obligations, damages and causes of action, direct or indirect, in law or equity, that the FDIC has or may have, whether known or unknown, including claims for breaches of fiduciary duty, common negligence, or gross negligence, arising out of or relating to his acts or omissions as a former employee, director, officer, trustee, comptroller, or governor of Downey, or his spouse and, as set forth below, the FDIC waives the provisions of California Civil Code section 1542 after full and complete satisfaction of all the following conditions:
  - a. The FDIC receiving full and complete payment of the Remaining Insurance Proceeds referred to in Section I.A.; and
  - b. The FDIC receiving full and complete payment of the McAlister Personal Contribution referred to in Section I.B.
3. McAlister agrees that when the Other Directors & Officers are released by the FDIC, the consideration referred to in Section I.A. will not be refundable from the FDIC.
4. With respect to the releases contained in Sections II.A.1. and II.A.2., the FDIC, for itself and successors and assigns, waives the provisions, rights and benefits of California Civil Code section 1542 which 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.

With respect to these releases, the FDIC shall be deemed to have waived any and all provisions, rights and benefits conferred by California Civil Code section 1542, except as to any claims asserting a breach of this Agreement.

5. If the FDIC does not receive the full amount of the Remaining Insurance Proceeds or Other Personal Contribution within the time provided above, the FDIC, in its sole discretion, may elect to commence litigation against the Directors & Officers for their acts or omissions as former directors and/or officers of Downey and, in such event, the FDIC will return to each Director, Officer or Insurer any consideration the FDIC received pursuant to Sections I.A. and I.B. in the amount each party paid. The Directors & Officers further agree that the lapse of time between November 20, 2011, and the commencement of litigation by the FDIC against a Director or Officer (referred to in Sections II.A.5. and II.A.6.) will not be relied upon or raised by said Director or Officer for any defense of statute of limitations, repose, laches or estoppel to claims brought by the FDIC in that litigation arising out of or relating to the Directors' & Officers' acts or omissions as former employees, directors or officers of Downey. The amount returned to the Insurers will be to each Insurer in the amount it paid.
6. In the event that the FDIC receives the Remaining Insurance Proceeds and the Other Personal Contribution within the time provided above, but does not receive the full amount of the McAlister Personal Contribution in the manner required in Section I.B., the FDIC, in its sole discretion, may elect to commence litigation against McAlister individually for his acts or omissions with respect to Downey and, in such event, the FDIC will return any partial

amount paid by him. McAlister further agrees that the lapse of time between November 20, 2011, and the commencement of litigation by the FDIC against McAlister or other Director or Officer (referred to in paragraph II.A.5. and II.A.6.) will not be relied upon or raised by McAlister for any defense of statute of limitations, repose, laches or estoppel to claims brought by the FDIC in that litigation arising out of or relating to his acts or omissions as a former employee, director or officer of Downey.

7. Notwithstanding anything herein to the contrary, the FDIC shall not release any claims asserting a breach of this Agreement.

B. Release of the FDIC by the Directors & Officers.

Upon being released by the FDIC, the Directors & Officers and their heirs, executors and assigns release the FDIC and its employees, officers, directors, representatives, successors and assigns from all claims, demands, obligations, damages and causes of action, direct or indirect, in law or equity, whether known or unknown, that they have or may have relating to Downey, against the FDIC and the Directors & Officers waive the provisions of California Civil Code section 1542 to the same extent set forth in Section II.A.4. Notwithstanding anything herein to the contrary, the Directors & Officers shall not release any claims asserting a breach of this Agreement.

C. Release of the Insurers by the FDIC.

Effective upon receipt of each Insurer's payment of the amount set forth in Section I.A., the FDIC, for itself and its successors and assigns, releases each of the Insurers who made such payments, and 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, known or unknown, including claims for "bad faith" or unfair claims handling practices, that it has or may have, that arise from or relate to the Insurance Policies and the claims asserted against the Directors & Officers, and waives the provisions of California Civil Code section



1542, to the same extent set forth in Section II.A.4. The FDIC's release of the Insurers and waiver of California Civil Code section 1542 is expressly limited to claims arising from or related to the Insurance Policies identified in this Agreement. The FDIC agrees that this release will extinguish any interest it may have under the Insurance Policies.

D. Release of Insurers by the Directors & Officers.

Effective upon receipt of each Insurer's payment of the amount set forth in Section I.A., the Directors & Officers, on behalf of themselves individually, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, release each of the Insurers who made such payments and 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, known or unknown, including claims for "bad faith" or unfair claims handling practices, that they have or may have, that arise from or relate to the Insurance Policies, and the Directors & Officers waive the provisions of California Civil Code section 1542 to the same extent set forth in Section II.A.4. The Directors & Officers' release of the Insurers is expressly limited to claims arising from or related to the Insurance Policies identified in the Agreement.

E Release of the FDIC by the Insurers.

Effective when the release in Section II.C. above becomes effective, the Insurers, for themselves and their successors and assigns, and on behalf of their parents, subsidiaries, affiliates and reinsurers, and their successors and assigns, release the FDIC, and its 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, known or unknown, that they have or may have, that arise from or relate to the Insurance Policies, and waive the provisions of California Civil Code section 1542 to the extent set forth in Section II.A.4. The Insurers' release of the FDIC is expressly limited to claims arising from or related to the Insurance Policies identified in this Agreement.

F. Release of the Directors & Officers by the Insurers.

Effective when the release in Section II.D. above becomes effective, the Insurers, on behalf of themselves individually, and their parents, subsidiaries, affiliates, and reinsurers, and their successors and assigns, release each of the Directors & Officers, and their respective heirs, executors, administrators, 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, known or unknown, including claims for "bad faith" or unfair claims handling practices, that they have or may have, that arise from or relate to the Insurance Policies, and waive the provisions of California Civil Code section 1542 to the same extent set forth in Section II.A.4. The Insurers' release of the Directors & Officers is expressly limited to claims arising from or related to the Insurance Policies identified in this Agreement.

G. Release from Enforcement Actions.

McAlister, Daniel Rosenthal, Thomas Prince, and Cheryl Olson each entered into a Stipulation and Consent to the Issuance of an Order of Prohibition From Further Participation and the FDIC has entered against each of them an Order of Prohibition From Further Participation in connection with their conduct at Downey during the relevant time period. The FDIC, therefore, will not recommend, pursuant to Section 8(t) of the Federal Deposit Insurance Act (the "Act"), 12 U.S.C. § 1818(t), pursuit of any other administrative enforcement action under Section 7(j) of the Act, 12 U.S.C. § 1817(j), Section 8 of the Act, 12 U.S.C. § 1818, or Section 18(j) of the Act, 12 U.S.C. § 1828(j), against those individuals regarding their conduct at Downey. With regard to John Gatzke, Brent McQuarrie, Lester Smull, Michael Abrahams, James Hunter, Jane Wolfe and Lillian Gavin, the FDIC will not recommend, pursuant to Section 8(t) of the Act, pursuit of any enforcement action under Sections 7(j), 8, or 18(j) of the Act against those individuals regarding their conduct at Downey.

H. Express Reservations from Releases by the FDIC.

1. The FDIC releases contained in Section II.A will not operate in any way to void, vacate or render ineffective the Stipulation and Consent to the Issuance

of an Order of Prohibition from Further participation entered into by the FDIC and McAlister, Daniel Rosenthal, Thomas Prince, and Cheryl Olson, which are referred to in Section II.G above.

2. The FDIC will not release, and expressly preserves fully any claims or causes of action against the Directors & Officers for any liability incurred as the maker, endorser or guarantor of any promissory note, guarantee or other such obligation payable or owed by them, at the time of this Agreement, to the FDIC or Downey.
3. This Agreement does not release any claims or actions that could be brought by any other agency or instrumentality of the United States government including claims for criminal restitution brought by the United States pursuant to the Mandatory Victims Restitution Act, 18 U.S.C. § 3663, et. seq.
4. Nothing in this Agreement shall constitute a release or waiver or otherwise affect any of the FDIC's rights, remedies, interests, claims or defenses that may or have been asserted by the FDIC, other than against the Directors and Officers: (i) in the Chapter 7 bankruptcy proceedings of Downey Financial Corp. (including any proof of claim filed therein) or any adversary or other proceedings instituted in connection therewith; (ii) in any proceeding related to any tax treatment sought by the FDIC with respect to Downey, including, without limitation, the claims for tax refunds pending before the Court of Federal Claims, and (iii) any proceedings involving the Chapter 7 Trustee of Downey Financial Corp. concerning Title 12 of the United States Code. Under no circumstances shall the Chapter 7 Trustee of Downey Financial Corp. be deemed to be an "Insured Releasee" or otherwise released under any provision of the Agreement.
5. Nothing in this Agreement shall constitute a release or waiver or otherwise affect any of the FDIC's rights, remedies, interests, claims or defenses which

may or have been asserted against any person or entity not expressly released in this Agreement.

### **SECTION III: Waiver of Dividends**

To the extent, if any, that the Directors & Officers are or were shareholders of Downey and by virtue thereof are or may have been entitled to a dividend, payment, or other prorata distribution upon resolution of the receivership of Downey, they hereby knowingly assign to the FDIC any and all rights, titles and interest in and to any and all such dividends, payments or other pro rata distributions.

### **SECTION IV: Representations and Acknowledgements**

A. Agreement Not Confidential.

Pursuant to 12 U.S.C. § 1821(s), this Agreement will not be deemed confidential.

B. Waiver of Indemnification.

The Directors & Officers agree to waive any and all indemnification rights that they have or may have for the Remaining Insurance Proceeds, the McAlister Personal Contribution or Other Personal Contribution from any other person.

C. No Admission of Liability.

The provisions of this Agreement and all negotiations, discussions and proceedings in connection with this settlement, shall not be deemed or constitute an admission by the Directors & Officers of fault, liability or wrongdoing as to any facts or claims alleged or asserted, including in any subsequent litigation or in any other actions or proceedings, and shall not be received in evidence or otherwise used by any person in any subsequent litigation, or in any other action or proceeding for any purpose, except in connection with a proceeding to enforce this Agreement. Payment by the Insurers shall not be construed as an admission of coverage on the part of the Insurers.

D. Choice of Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, regardless of its internal choice-of-law principles.

E. Execution in Counterparts.

This Agreement may be signed in counterparts with the same effect as if the signatures were upon the same document. Signed signature pages may be delivered by facsimile, e-mail or PDF transmission, which will constitute complete delivery without the necessity of delivery of originally signed signature pages.

F. Entire Agreement and Amendments.

This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the party or parties to be bound thereby, or signed by their respective authorized attorney(s) or other representative(s).

G. Reasonable Cooperation.

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 otherwise perform the terms of this Agreement.


H. Advice of Counsel.

Each Party hereby acknowledges that she, he or it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained


by his, her or its counsel.

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.

Agreed:

  
Federal Deposit Insurance Corporation  
By: Leonard J. DePasquale  
Supervisory Counsel, FDIC Legal Division

Date: 6-1-12

  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA  
By: Leonard J. DePasquale  
Supervisory Counsel, FDIC Legal Division


Date: 6-1-12

\_\_\_\_\_  
Date: \_\_\_\_\_  
Maurice McAlister

\_\_\_\_\_  
Date: \_\_\_\_\_  
Lester Smull

\_\_\_\_\_  
Date: \_\_\_\_\_  
Daniel Rosenthal

\_\_\_\_\_  
Date: \_\_\_\_\_  
Michael Abrahams

  
Date: 6/6/12  
John Gatzke

\_\_\_\_\_  
Date: \_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust

\_\_\_\_\_  
Date: \_\_\_\_\_  
Thomas Prince

\_\_\_\_\_  
Date: \_\_\_\_\_  
Jane Wolfe

\_\_\_\_\_  
Date: \_\_\_\_\_  
Cheryl Olson

\_\_\_\_\_  
Date: \_\_\_\_\_  
James Hunter

\_\_\_\_\_  
Date: \_\_\_\_\_  
Brent McQuarrie

by his, her or its counsel.

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.

Agreed:

Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By:

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By:

*Maurice McAlister* Date: 5-29-12  
Maurice McAlister

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

*18 17*

by his, her or its counsel.

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.

Agreed:

Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By:

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By:

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

*Daniel Rosenthal*  
Daniel Rosenthal Date: 5-18-12

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

*20 14 07*



by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By:

Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By:

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_


\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_


  
\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

 1/14 07

by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By:

Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By:

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

*(Cheryl G. Olson)*  
Cheryl Olson Date: 5/24/12

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

*to 14 M*

by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

*Brent McQuarrie* Date: *5/19/12*  
Brent McQuarrie

*8 14 12*

by his, her or its counsel.

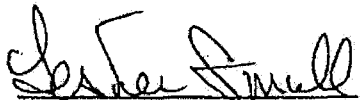
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

Agreed:

\_\_\_\_\_ Date: \_\_\_\_\_  
Federal Deposit Insurance Corporation  
By: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_  
Maurice McAlister

 Date: 5-15-12  
Lester Smull

\_\_\_\_\_ Date: \_\_\_\_\_  
Daniel Rosenthal

\_\_\_\_\_ Date: \_\_\_\_\_  
Michael Abrahams

\_\_\_\_\_ Date: \_\_\_\_\_  
John Gatzke

\_\_\_\_\_ Date: \_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust

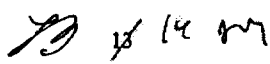
\_\_\_\_\_ Date: \_\_\_\_\_  
Thomas Prince

\_\_\_\_\_ Date: \_\_\_\_\_  
Jane Wolfe

\_\_\_\_\_ Date: \_\_\_\_\_  
Cheryl Olson

\_\_\_\_\_ Date: \_\_\_\_\_  
James Hunter

\_\_\_\_\_ Date: \_\_\_\_\_  
Brent McQuarrie



by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

*Michael Abrahams* Date: 5/15/12  
\_\_\_\_\_  
Michael Abrahams

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

\_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust Date: \_\_\_\_\_

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

\_\_\_\_\_  
Jane Wolfe Date: \_\_\_\_\_

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

*8/14/12*

by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_  
Federal Deposit Insurance Corporation  
By: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA Date: \_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
Maurice McAlister Date: \_\_\_\_\_

\_\_\_\_\_  
Lester Smull Date: \_\_\_\_\_

\_\_\_\_\_  
Daniel Rosenthal Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Abrahams Date: \_\_\_\_\_

\_\_\_\_\_  
John Gatzke Date: \_\_\_\_\_

*Katherine E. Finnell* Date: 6/4/12  
Katherine E. Finnell,  
as Trustee of the Finnell Trust

\_\_\_\_\_  
Thomas Prince Date: \_\_\_\_\_

*Jane Wolfe* Date: 5/15/12  
Jane Wolfe

\_\_\_\_\_  
Cheryl Olson Date: \_\_\_\_\_

\_\_\_\_\_  
James Hunter Date: \_\_\_\_\_

\_\_\_\_\_  
Brent McQuarrie Date: \_\_\_\_\_

*14 m*

by his, her or its counsel.

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.

Agreed:

\_\_\_\_\_ Date: \_\_\_\_\_  
Federal Deposit Insurance Corporation  
By:

\_\_\_\_\_ Date: \_\_\_\_\_  
Federal Deposit Insurance Corporation,  
As Receiver for Downey Savings & Loan Association, FA  
By:

\_\_\_\_\_ Date: \_\_\_\_\_  
Maurice McAlister

\_\_\_\_\_ Date: \_\_\_\_\_  
Lester Smull

\_\_\_\_\_ Date: \_\_\_\_\_  
Daniel Rosenthal

\_\_\_\_\_ Date: \_\_\_\_\_  
Michael Abrahams

\_\_\_\_\_ Date: \_\_\_\_\_  
John Gatzke

\_\_\_\_\_ Date: \_\_\_\_\_  
Katherine E. Finnell,  
as Trustee of the Finnell Trust

\_\_\_\_\_ Date: \_\_\_\_\_  
Thomas Prince

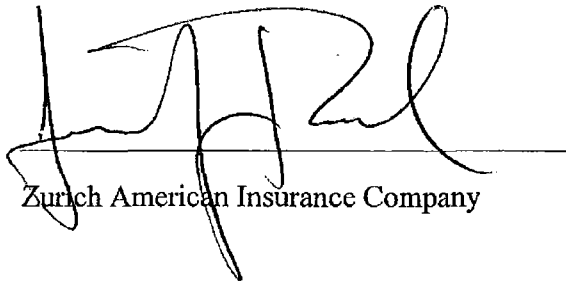
\_\_\_\_\_ Date: \_\_\_\_\_  
Jane Wolfe

\_\_\_\_\_ Date: \_\_\_\_\_  
Cheryl Olson

*James M. Hunter* Date: 5/16/2012  
James Hunter

\_\_\_\_\_ Date: \_\_\_\_\_  
Brent McQuarrie

*20 12 14 07*



Zurich American Insurance Company

---

St. Paul Mercury Insurance Company

---

Axis Surplus Insurance Company

Approved as to Form:

Counsel for Maurice McAlister, Daniel Rosenthal,  
Thomas Prince, Cheryl Olson, Brent McQuarrie,  
Lester Smull, Michael Abrahams, James Hunter and Jane Wolfe  
MORRISON & FOERSTER LLP

By: \_\_\_\_\_

Counsel for John Gatzke  
IRELL & MANELLA LLP

By: \_\_\_\_\_

Counsel for Katherine E. Finnell, as Trustee of the Finnell Trust,  
WORDEN WILLIAMS, APC

By: \_\_\_\_\_



\_\_\_\_\_  
Zurich American Insurance Company

Timothy C. Kraul

\_\_\_\_\_  
St. Paul Mercury Insurance Company

\_\_\_\_\_  
Axis Surplus Insurance Company

Approved as to Form:

Counsel for Maurice McAlister, Daniel Rosenthal,  
Thomas Prince, Cheryl Olson, Brent McQuarrie,  
Lester Smull, Michael Abrahams, James Hunter and Jane Wolfe  
MORRISON & FOERSTER LLP

By: \_\_\_\_\_

Counsel for John Gatzke  
IRELL & MANELLA LLP

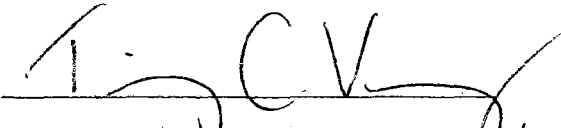
By: \_\_\_\_\_

Counsel for Katherine E. Finnell, as Trustee of the Finnell Trust,  
WORDEN WILLIAMS, APC

By: \_\_\_\_\_

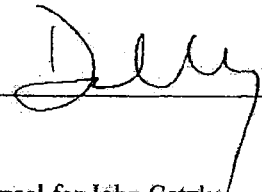
\_\_\_\_\_  
Zurich American Insurance Company

\_\_\_\_\_  
St. Paul Mercury Insurance Company

  
\_\_\_\_\_  
Axis Surplus Insurance Company 6/9/2012

Approved as to Form:

Counsel for Maurice McAlister, Daniel Rosenthal,  
Thomas Prince, Cheryl Olson, Brent McQuarrie,  
Lester Smull, Michael Abrahams, James Hunter and Jane Wolfe  
MORRISON & FOERSTER LLP

By:  \_\_\_\_\_ 5/31/2012

Counsel for John Gatzke  
IRELL & MANELLA LLP

By: \_\_\_\_\_

Counsel for Katherine E. Finnell, as Trustee of the Finnell Trust,  
WORDEN WILLIAMS, APC

By: \_\_\_\_\_

720

M

---

Zurich American Insurance Company

---

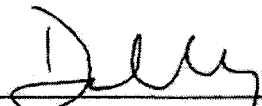
St. Paul Mercury Insurance Company

---

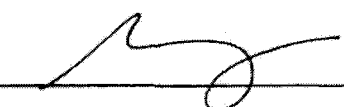
Axis Surplus Insurance Company

Approved as to Form:

Counsel for Maurice McAlister, Daniel Rosenthal,  
Thomas Prince, Cheryl Olson, Brent McQuarrie,  
Lester Smull, Michael Abrahams, James Hunter and Jane Wolfe  
MORRISON & FOERSTER LLP

By:  5/31/2012

Counsel for John Gatzke  
IRELL & MANELLA LLP

By:  6/6/12

Counsel for Katherine E. Finnell, as Trustee of the Finnell Trust,  
WORDEN WILLIAMS, APC

By: \_\_\_\_\_

720

M

---

Zurich American Insurance Company

---

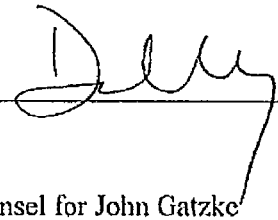
St. Paul Mercury Insurance Company

---

Axis Surplus Insurance Company

Approved as to Form:

Counsel for Maurice McAlister, Daniel Rosenthal,  
Thomas Prince, Cheryl Olson, Brent McQuarrie,  
Lester Smull, Michael Abrahams, James Hunter and Jane Wolfe  
MORRISON & FOERSTER LLP

By:  5/31/2012

Counsel for John Gatzke  
IRELL & MANELLA LLP

By: \_\_\_\_\_

Counsel for Katherine E. Finnell, as Trustee of the Finnell Trust,  
WORDEN WILLIAMS, APC

By: 