

## SETTLEMENT AND RELEASE AGREEMENT

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

The Plaintiff Federal Deposit Insurance Corporation as Receiver for Freedom Bank of Georgia (“FDIC-R”), and Richard Adams, Keith Ariail, Claude Philip Brown, Vince D. Cater, Harold C. Davis, Bruce Grout, Thomas H. Hardy, James Purcell, Verlin Reece, Donald Swain Shubert, Ronald Silva, and Harold L. Swindell (collectively the “Settling Defendants”), (individually, the FDIC-R, the Settling Defendants may be referred to herein as “Party” and collectively as the “Parties”).

### RECITALS

WHEREAS:

Prior to March 6, 2009, Freedom Bank Of Georgia (“Bank”) was a depository institution organized and existing under the laws of Georgia;

On March 6, 2009, the Georgia Department of Banking & Finance (“GDBF”) 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;

On April 11, 2013, the FDIC-R filed a complaint for money damages against the Settling Defendants, each of whom served at various times as a director and/or officer of the Bank. Those claims for damages are now pending in the United States District Court for the Northern District of Georgia in Federal Deposit Insurance Corporation as a Receiver for Freedom Bank of Georgia v. Richard Adams, Keith Ariail, Claude Philip Brown, Vince D. Cater, Harold C. Davis,

Bruce Grout, Thomas H. Hardy, James Purcell, Verlin Reece, Donald Swain Shubert, Ronald Silva, and Harold L. Swindell (Civil Action Number 1:12-cv-00726-WCO (“D&O Action”)).

The Settling Defendants have denied liability in the D&O Action.

On September 7, 2012, Defendant Grout informed the Court and all Parties in the D&O Action that he had filed a Voluntary Petition for relief under Chapter 7 of the United States Bankruptcy Code, in the United States Bankruptcy Court for the Middle District of Georgia (the “Grout Bankruptcy Proceeding”). On or about December 7, 2012, Judge James P. Smith issued an order of discharge in the Grout Bankruptcy Proceeding which included the allegations against Defendant Grout in the D&O Action. Defendant Grout did not seek an order to be dismissed from the D & O Action.

The undersigned Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of further 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, on or before thirty (30) calendar days following the execution of this Agreement by the last of each of the undersigned Parties (“Due Date”), the Settling Defendants agree to pay or cause to be paid to the FDIC-R the sum of One Million Three Hundred Fifty Thousand Dollars and No Cents (\$1,350,000.00) (“the Settlement Payment”).

B. The Settling Defendants shall deliver or cause the delivery of the Settlement Payment to the FDIC-R by direct wire transfer into the following account:

Bank: Federal Home Loan Bank of New York

(b)(4) ABA Routing Number:

For Credit to: FDIC National Liquidation Account

(b)(4) Account Number:

OBI: FIN 10044; Freedom Bank of Georgia, Commerce, GA

Contact: Robert J. Gibson, 972-761-8163; Professional Liability [redacted] DIF Fund; (b)(5)

(b)(5) Asset No. [redacted]

In the event that the Settlement Payment is not delivered to the FDIC-R (or its counsel) within thirty (30) calendar days following the date the last of the undersigned Parties executes this Agreement, interest shall accrue on all unpaid amounts at the rate of 5% per annum from the Due Date until the date of payment.

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

1. Extend the period of time for the Settlement Payment, including interest accruing from the Due Date, through the date of payment at a rate calculated in accordance with 26 U.S.C. § 6621(a)(2); or

2. Enforce this Agreement, in which event the Settling Defendants agree to jurisdiction in United States District Court for the Northern District of Georgia and to pay all of the FDIC-R's reasonable attorney's fees and costs expended in enforcing the terms of this Agreement; or

3. Terminate the Agreement, move to vacate any dismissal order, to which the Settling Defendants agree to consent, and continue the D&O Action. The Settling Defendants 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; and/or

4. Seek any other relief available to it in law or equity.

Any extension of time under Section I.C.1 for delivery of the Settlement Payment or acceptance of a portion of the Settlement Payment shall not prejudice the FDIC-R's rights to take

any of the actions set forth in Section I.C.2 through I.C.4 at any time prior to receipt of Settlement Payment (including all accrued interest) in full.

### **SECTION II: Stipulation and Dismissal**

Within ten business days after the latter of (1) full execution of this Agreement by all of the Parties, and (2) receipt of the Settlement Payment, plus any accrued interest, the FDIC-R shall file a stipulation of dismissal with prejudice, executed by the attorneys for all Parties hereto, in the form attached hereto as Exhibit A, in the D&O Action.

### **SECTION III: Releases**

#### **A. The FDIC-R's Releases.**

Upon receipt of the Settlement Payment in full and except as provided in Section III.C., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges the Settling Defendants and their respective heirs, executors, trustees, administrators, representatives, insurers, 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 Defendants' respective functions, duties and actions as officers and/or directors of the Bank, including without limitation the causes of action alleged in the D&O action.

#### **B. The Settling Defendants' Release.**

Effective simultaneously with the release granted in Section III.A. above, the Settling Defendants, on behalf of themselves individually, and their respective heirs, executors, trustees, administrators, agents, representatives, insurers, attorneys, successors, and assigns, hereby release and discharge the FDIC-R, and its employees, officers, directors, 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 Defendants' respective functions, duties and actions as officers and/or directors of the Bank including without limitation the causes of action alleged in the D&O Action.

C. 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 Defendants 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 IV: Waiver of Dividends and Proceeds from Litigation**

To the extent, if any, that Settling Defendants are or were shareholders of the Bank 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, Settling Defendants 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 V: 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 or her counsel.

C. Financial Disclosure Representation. Each Settling Defendant has submitted financial information to the FDIC-R including personal financial statements and herein affirms that his financial information is true and accurate as of the date of this agreement. Each Settling Defendant expressly acknowledges that, in determining to settle the claims released herein, the FDIC-R has reasonably and justifiably relied upon the accuracy of the financial information submitted by the Settling Defendants.

#### **SECTION VI: 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 conclude the D&O Action and to otherwise perform the terms of this Agreement.

**SECTION VII: 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. The Settling Defendants expressly deny any liability regarding the FDIC-R's claims.

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 Georgia.

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:

Robert J. Gibson  
Senior Attorney  
FDIC, Legal Division  
1601 Bryan Street  
Dallas, Texas 75201



If to the Settling Defendants:

Theodore J. Sawicki, Esq.  
Alston & Bird, LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 881-7000

(b)(6)

(b)(6)

[Redacted]

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 FREEDOM BANK OF GEORGIA

(b)(6)

Date: 12/17/2014

BY: [Redacted]

TITLE: Senior Attorney

PRINT NAME: Robert J. Gibson

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

\_\_\_\_\_

RICHARD ADAMS

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

\_\_\_\_\_

KEITH ARIAIL



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

CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

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

RONALD SILVA

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

\_\_\_\_\_

HAROLD L. SWINDELL

The Parties respectfully request that the Court enter an Order dismissing this matter with prejudice and retaining jurisdiction to enforce the terms of the Settlement Agreement entered into by the Parties on or about December \_\_\_, 2014.

Respectfully submitted this \_\_\_ day of December, 2014.

/s/ Roy A. Banerjee  
Roy A. Banerjee  
Georgia Bar No. 035917

(b)(6)

[Redacted]

Angelina M. Kim  
Georgia Bar No. 370141

(b)(6)

[Redacted]

**KUMAR, PRABHU, PATEL &  
BANERJEE, LLC**

1117 Perimeter Center West  
Suite W 311  
Atlanta, Georgia 30338  
Telephone: 678-443-2220  
Facsimile: 678-443-2230

*Counsel for Plaintiff*

/s/ Theodore J. Sawicki  
Theodore J. Sawicki  
Georgia Bar No. 627851

[Redacted]

(b)(6)

Austin M. Hall  
Georgia Bar No. 310751

[Redacted]

(b)(6)

**ALSTON & BIRD LLP**

One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
Phone: (404) 881-7000  
Fax: (404) 881-7777

*Counsel for Defendants Richard  
Adams, Keith Ariail, Claude Philip  
Brown, Vince D. Cater, Harold C.  
Davis, Thomas H. Hardy, James  
Purcell, Verlin Reece, Donald Swain  
Schubert, Ronald Silva and Harold L.  
Swindell*

/s/ George A. Koenig  
George A. Koenig  
Georgia Bar No. 427626

[Redacted]

(b)(6)

**KOENIG LAW GROUP, P.C.**

Peachtree 25th, Suite 599

1718 Peachtree Street

Atlanta, Georgia 30309

Phone: (678) 539-6171

Fax: (678) 539-6218

*Counsel for Defendant Bruce Grout*

**LOCAL RULE 7.1D CERTIFICATION**

By signature below, counsel certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

/s/ Theodore J. Sawicki

Theodore J. Sawicki

Georgia Bar No. 627851

**CERTIFICATE OF SERVICE**

This is to certify that on this date, I electronically filed the foregoing JOINT STIPULATION OF DISMISSAL WITH PREJUDICE with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing upon Counsel of Record.

This \_\_th day of December, 2014.

/s/ Theodore J. Sawicki

Theodore J. Sawicki

Georgia Bar No. 627851

(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 FREEDOM BANK OF GEORGIA

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

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

(b)(6)

Date: 12-22-2014



RICHARD ADAMS

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

\_\_\_\_\_

KEITH ARIAIL

(b)(6)

[Redacted]

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 FREEDOM BANK OF GEORGIA

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

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

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

RICHARD ADAMS

(b)(6)

Date: 12-22-14

[Redacted]

12-22-14

KEITH ARIAIL



(b)(6)

Date:

12-22-14



CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

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

RONALD SILVA

(b)(6)

CLAUDE PHILIP BROWN



Date: December 22, 2014

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

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

RONALD SILVA

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

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

\_\_\_\_\_  
CLAUDE PHILIP BROWN

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

\_\_\_\_\_  
VINCE D. CATER

(b)(6)

Date: 12-19-14



\_\_\_\_\_  
HAROLD C. DAVIS

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

\_\_\_\_\_  
BRUCE GROUT

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

\_\_\_\_\_  
THOMAS H. HARDY

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

\_\_\_\_\_  
JAMES PURCELL

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

\_\_\_\_\_  
VERLIN REECE

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

\_\_\_\_\_  
DONALD SWAIN SHUBERT

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

\_\_\_\_\_  
RONALD SILVA

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

CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

(b)(6)

Date: 1/5/2015

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

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

RONALD SILVA

RICHARD ADAMS

Date:

KEITH ARIAIL

Date:

CLAUDE PHILIP BROWN

Date:

VINCE D. CATER

Date:

HAROLD C. DAVIS

Date:

BRUCE GROUT

Date: Dec. 26, 2014

Thomas H. Hardy

THOMAS H. HARDY

(b)(6)

Date:

JAMES PURCELL

Date:

VERLIN REECE

Date:

DONALD SWAIN SHUBERT

Date:

RONALD SILVA

Date:

HAROLD L. SWINDELL

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

CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

(b)(6)

Date: 10/13/14



JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

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

RONALD SILVA

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

\_\_\_\_\_  
CLAUDE PHILIP BROWN

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

\_\_\_\_\_  
VINCE D. CATER

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

\_\_\_\_\_  
HAROLD C. DAVIS

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

\_\_\_\_\_  
BRUCE GROUT

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

\_\_\_\_\_  
THOMAS H. HARDY

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

\_\_\_\_\_  
JAMES PURCELL

(b)(6)

Date: 12/21/2014



\_\_\_\_\_  
VERLIN REECE

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

\_\_\_\_\_  
DONALD SWAIN SHUBERT

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

\_\_\_\_\_  
RONALD SILVA

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

CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

(b)(6)

Date: 12/18/14



DONALD SWAIN SHUBERT

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

RONALD SILVA



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

CLAUDE PHILIP BROWN

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

VINCE D. CATER

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

HAROLD C. DAVIS

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

BRUCE GROUT

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

THOMAS H. HARDY

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

JAMES PURCELL

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

VERLIN REECE

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

DONALD SWAIN SHUBERT

(b)(6)

Date: 12-20-14



RONALD SILVA

(b)(6)

Date: 12-19-2014



HAROLD L. SWINDELL