SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made as of this 14th day of May, 2013, by, between, and among the Plaintiff Federal Deposit Insurance Corporation, as receiver of Bank of Lincolnwood ("FDIC-R") and Guaranty National Title Company, Robert Voegel and Robert Rothstein (collectively, the "Settling Defendants"). The FDIC-R and the Settling Defendants may be referred to herein individually as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

1. Prior to June 5, 2009, the Bank of Lincolnwood ("Bank") was a state nonmember depository institution organized and existing under the laws of the State of Illinois;

2. On June 5, 2009, the Illinois Department of Financial and Professional Regulation closed the Bank and appointed the FDIC-R as its receiver. In accordance with 12 U.S.C. § 1821(d)(2)(A)(i), the FDIC-R as receiver succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets;

3. The Bank's assets now belonging to the FDIC-R include any and all of the Bank's claims, demands, and causes of actions against Settling Defendants;

4. On November 13, 2008, the Bank of Lincolnwood filed a complaint for money damages and equitable relief against the Settling Defendants. On August 5, 2009 the FDIC-R was substituted for the Bank as the Plaintiff. Those claims for damages are now pending in the Circuit Court of Cook County, Illinois, Case No. 08 CH 42678 (the "Action"). The Settling Defendants deny liability.

5. The undersigned Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, distraction, 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) days following the date the FDIC-R executes this Agreement (the "Payment Due Date"), the Settling Defendants, jointly and severally, agree to pay the FDIC-R the sum of One Hundred and Forty Thousand Dollars ($140,000.00) (the "Settlement Payment").

B. The Settling Defendants shall deliver the Settlement Payment to the FDIC-R by direct wire transfer into an account to be designated by FDIC-R by notice to attorney Richard Reizen for the Settling Defendants.

C. If the Settlement Payment is not received by the FDIC-R on or before the date determined by subparagraph A above, then the FDIC-R, in its sole discretion, shall have the right to (i) extend the period of time for payment, including interest accruing from the date of execution of this Agreement by the FDIC-R through the date of payment at a rate of five (5) per cent per annum from the Payment Due Date to the date payment is received by the FDIC-R; (ii) enforce this Agreement and, in such event, the Settling Defendants agree to jurisdiction in the United States District Court for the Northern District of Illinois and to pay all of the FDIC-R's reasonable attorney's fees and costs expended in enforcing the terms of this Agreement; (iii) terminate the Agreement, move to vacate any dismissal order, to which the Settling Defendants shall consent, and re-institute the Action (or institute a new action) on the FDIC-R's claims, to which the Settling Defendant(s) shall consent; and/or (iv) seek any other relief available to it in law or equity. Any extension of time for delivery of the Settlement Payment shall not prejudice the FDIC-R's right to take other action or seek any relief during or after such period of extension, including the right to terminate this Agreement or to bring an action to enforce the Agreement.

SECTION II: Stipulation and Dismissal.

Within ten days after the latter of full execution of this Agreement by each of the Parties, or receipt of the Settlement Payment, 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.

SECTION III: Releases.

A. The FDIC-R's Release.

Upon receipt of the Settlement Payment and except as provided in PARAGRAPH III.C., the FDIC-R, for itself and its employees, officers, directors, agents, representatives, attorneys, successors and assigns, hereby releases and discharges each of the Settling Defendants, and their respective employees, officers, directors, agents, representatives, attorneys, heirs, executors, administrators, successors and assigns, from any and all claims, demands, contracts, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, whether known or unknown, belonging to the FDIC-R, that arise from or relate to the allegations asserted in the Action.

B. The Settling Defendants' Release.

Effective simultaneously with the release in PARAGRAPH III.A above, the Settling Defendants, on behalf of themselves individually, and their respective employees, officers, directors, heirs, executors, administrators, agents, representatives, attorneys, successors and assigns, hereby release and discharge FDIC-R, the Federal Deposit Insurance Corporation, and each of their respective employees, officers, directors, agents, representatives, attorneys, successors and assigns, from any and all claims, demands, contracts, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to, the Bank.

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 (i) the FDIC-R, (ii) the Bank, (iii) other financial institutions, or (iv) any other person or entity, including without limitation any 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 limits, waives, releases, diminishes or compromises the jurisdiction and authority of the Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority to institute administrative enforcement or other proceedings seeking removal, prohibition, civil penalties, restitution or other relief it is authorized to seek pursuant of its supervisory or regulatory authority against any person.

3. Notwithstanding any other provision, this Agreement does not waive any claims which 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 Victim and Witness Protection Act, 18 U.S.C. § 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 or its holding company and by virtue thereof are or may be entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank or proceeds in any litigation that has been or could be brought against the 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 United States government or any agency or department thereof in connection with the Bank, its conservatorship or receivership; Settling Defendants hereby knowingly assign to the FDIC-R any and all rights, title and interest in and to any and all such dividends, payments or other distributions, or proceeds.

SECTION V: Insolvency.

A. Insolvency.

Each Settling Defendant warrants that the Payment to FDIC-R set out in Section I.A is being funded by Robert Rothstein and Guaranty National Title Company, and that Robert Voegel is not contributing any money to the settlement payment. Robert Rothstein and Guaranty National Title Company warrant as to payments made by them or on their behalf that at the time of such payment, neither Robert Rothstein nor Guaranty National Title Company is insolvent nor will the payment made by them or on their behalf render either Robert Rothstein or Guaranty

National Title Company insolvent within the meaning and/or for the purposes of the United States Bankruptcy Code. Any warranty made by each Settling Defendant is not made by his or its counsel.

B. Preferences.

In the event that the FDIC-R is required to return any portion of the Settlement Payment due to a final order by a court that the transfer of the Settlement Payment or any portion thereof constituted a preference, voidable preference, fraudulent transfer or similar transaction, then, in its sole discretion, the FDIC-R may, without waiver of any other rights it may have in law or equity, (i) give the Settling Defendants an opportunity to pay to the FDIC-R the amount of such order; and/or (ii) terminate this Agreement and declare the release null and void, move to vacate any dismissal order, to which the Settling Defendants shall consent, and re-institute the FDIC-R's claims (or file a new action re-instituting the FDIC-R's claims), to which the Settling Defendants shall consent without prejudice to any defenses the Settling Defendants may have, except for the defense of statute of limitations, which the Settling Defendants hereby waive.

SECTION VI: Termination.

In the event the FDIC-R exercises its right to terminate this Agreement as provided herein, then, for the purposes of any statute of limitations or other time-based defense to any of the claims of the FDIC-R, the Parties to this Agreement shall be deemed to have reverted to their respective status as of 5:00 p.m. Eastern Time, January 30, 2013.

SECTION VII: Notices.

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

If to the FDIC-R:

Gary S. Caplan
Reed Smith, LLP
10 S. Wacker Drive
Chicago, IL 60606
312/207-6425
(b)(6) [redacted]

If to the Settling Defendants:

Cortne Anway
Apex Law Group, PC
3728 W. Giddings Street, Floor 1
Chicago, IL 60625
773/230-4417
(b)(6) [redacted]

SECTION VIII: Other Matters.

A. <u>No Admission of Liability</u>.

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 hereto except to enforce its terms.

B. <u>Execution in Counterparts</u>.

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

C. Binding Effect.

All of the undersigned persons represents and warrants that they are a Party 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, administrators, representatives, attorneys, successors and assigns.

D. Entire Agreement.

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. No representations, warranties or inducements have been made to or relied on by any Party concerning this Agreement and its exhibits other than those contained therein.

E. Amendments.

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

F. Specific Representations Warranties and Disclaimer.

Settling Defendants expressly acknowledge that in determining to settle the claims released herein, the FDIC-R has reasonably and justifiably relied upon the accuracy of financial information provided to the FDIC-R in discovery and incorporated herein by reference. Settling Defendants hereby specifically represent and warrant that the financial information provided by and on behalf of each Settlement Defendant is complete and accurate, and has not materially changed since the information was provided. Settling Defendants further represent and warrant that they have no material assets that were not disclosed in discovery, and there have been no material changes in the value of any assets disclosed in discovery. If in the financial information provided in discovery, any of the Settling Defendants has failed to disclose any material interest, legal, equitable, or beneficial, in any asset, that Settling Defendant agrees to cooperate fully with the FDIC-R to transfer his/its interest in the asset to the FDIC-R. Moreover, if, in discovery, any Settling Defendant has failed to disclose any material interest, legal, equitable, or beneficial, in any asset, the FDIC-R, in its sole discretion, may exercise one or more or all of the following remedies:

1. The FDIC-R may declare the releases granted to the Defendant as null and void, move to vacate any dismissal order (or file a new action re-instituting the FDIC-R's claims), to which the Settling Defendants shall consent;

2. The FDIC-R may retain the Settlement Funds; and

3. The FDIC-R may sue the Defendant for damages, an injunction, and specific performance for the breach of this Agreement.

G. Reasonable Cooperation.

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

2. The Settling Defendants agree to cooperate fully with the FDIC-R in connection with any action required under this Agreement.

H. Choice of Law.

This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of Illinois, without regard to its conflicts of laws.

I. Forum.

Any legal action brought to enforce this Agreement shall be brought in the United States District Court for the Northern District of Illinois, unless that Court lacks jurisdiction, in which event, or upon a final order determining a lack of jurisdiction, the Parties agree to jurisdiction in the Circuit Court of Cook County, Illinois.

J. Advice of Counsel.

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

K. Severability.

If any provision of this Agreement is held unenforceable, then such provision will, if possible, be modified to be enforceable but still reflect the Parties' intentions. In any event, the remaining provisions of this Agreement shall remain in full force and effect.

L. Title and Captions.

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

M. Authorship/Construction.

This Agreement sets forth terms and agreements jointly negotiated by the Parties. It is expressly agreed that this Agreement shall not be construed for or against any Party by reason of which Party drafted it.

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 The Bank of Lincolnwood

(b)(6)

Date: 5/14/13

BY: [redacted]

TITLE: COUNSEL

PRINT NAME: THOMAS J. O'BRIEN

Guaranty National Title Company

Date: ____________

BY: ______________________

TITLE: ______________________

PRINT NAME: ______________________

Robert J. Voegel

Date: ____________

____

Robert Rothstein

Date: ____________

____

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 The Bank of Lincolnwood

Date: ____________ BY: ______________________________

TITLE: ______________________________

PRINT NAME: ______________________________

Guaranty National Title Company

(b)(6)

Date: 5/8/13 BY: [redacted]

TITLE: Sr. V.P.

PRINT NAME: Robert Rothstein

Robert J. Voegel

(b)(6)

Date: 5/13/13 [redacted]

Robert Rothstein

(b)(6)

Date: 5/8/13 [redacted]

EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

FEDERAL DEPOSIT INSURANCE CORPORATION as receiver for the Bank of Lincolnwood	)	
	)	Civil Action No. 08 CH 42678
Plaintiff,	)	
	)	
vs.	)	
	)	
GUARANTY NATIONAL TITLE COMPANY, ROBERT J. VOEGEL, and ROBERT ROTHSTEIN	)	
Defendants.		

JOINT STIPULATION AND ORDER OF DISMISSAL

This matter coming to be heard on the Parties' Joint Stipulation of Dismissal, all parties having consented by stipulation, it is hereby ordered that:

Pursuant to the Settlement Agreement and Release entered into by the Parties, this matter is hereby dismissed with prejudice. Each party to pay his/its own fees and costs.

Gary S. Caplan
Casey L. Westover
Reed Smith LLP
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Chicago, Illinois 60606-7507
(312) 207-1000
Firm No. 44486
Attorneys for Plaintiff

Cortne Anway
Apex Law Group, PC
3728 W. Giddings Street, Floor 1
Chicago, IL 60625
(773) 230-4417
Attorneys for Defendants

Entered:

Dated:

Judge