

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this \_\_\_\_ day of March 2012 by and between the following undersigned parties:

The Federal Deposit Insurance Corporation, as receiver of The Columbian Bank and Trust Company ("FDIC"), and Richard L. Roach ("Roach"). (Individually, the FDIC and Roach may be referred to herein as "Party" and collectively as the "Parties".)

### RECITALS

#### WHEREAS:

Prior to August 22, 2008, The Columbian Bank and Trust Company ("Columbian" or the "Bank") was a depository institution organized and existing under the laws of the State of Kansas.

On August 22, 2008, the Bank was closed by the State of Kansas 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 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 has asserted claims against certain persons, including Roach, who had each served at various times as directors of the Bank. Roach has denied liability for the FDIC's claims.

BancInsure issued directors' and officers' liability policy number  (the (b)(4)  
"Policy"), which insured the directors and officers of the Bank according to the terms, provisions and conditions of the Policy. Roach has made claims under the Policy.

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

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

#### SECTION I: Payment to FDIC

A. As an essential covenant and condition to this Agreement, Roach, agrees to pay the FDIC the sum of \$50,000 ("the Settlement Funds").

B. Upon the execution of an original, or originals in counterpart, of this Agreement by each of the undersigned Parties to this Agreement, the Settlement Funds shall be delivered to FDIC by direct wire transfer into an account designated by FDIC or by certified or cashier's check drawn upon a depository institution acceptable to FDIC.

C. Without waiving any other rights that the FDIC may have, in the event that all Settlement Funds are not received by the FDIC, the FDIC, in its sole discretion, shall have the right at any time prior to receipt of all Settlement Funds to declare this Agreement null and void, shall have the right to extend this Agreement for any period of time until it receives all Settlement Funds, and/or shall have the right to enforce this Agreement, in which event Roach, agrees to jurisdiction in Federal District Court in Kansas and agrees to pay all of the FDIC's reasonable attorneys' fees expended in enforcing the terms of this Agreement. Any decision by the FDIC to accept a portion of the Settlement Funds shall not prejudice its rights to declare this Agreement null and void at any time prior to receipt of all Settlement Funds or to enforce the terms of this Settlement Agreement; provided however, that in the event the FDIC declares this Agreement null and void, the FDIC will return all amounts paid to it under this Agreement.

#### SECTION II: Releases

A. Release of Roach by the FDIC.

Effective upon receipt in full of the settlement funds described in SECTION I above, and except as provided in PARAGRAPH II.D., the FDIC, for itself and its successors and assigns, hereby releases and discharges Roach and his heirs, executors, administrators, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to the FDIC, that arise from or relate to, the performance, nonperformance, or manner of performance of Roach's functions, duties and actions as a director of the Bank.

B. Release of FDIC by Roach.

Effective simultaneously with the release granted in PARAGRAPH II.A. above, Roach, on behalf of himself individually, and his heirs, executors, administrators, agents, representatives, successors and assigns, hereby releases and discharges the FDIC, and its employees, officers, directors, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to, the Bank or to the performance, nonperformance, or manner of performance of Roach's functions, duties and actions as a director of the Bank.

C. Release of BancInsure by Roach

Effective simultaneously with the releases granted in Paragraphs II.A. and II.B. above, Roach, on behalf of himself individually, and his heirs, executors, administrators, agents, representatives, successors and assigns, hereby releases and discharges BancInsure, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions and causes of action, direct or indirect, in law or in equity, that arise from or relate to the Policy; Provided, reimbursement for those attorney fees and costs incurred to the date of the releases granted above in the FDIC vs. McCaffree, *et al*, US District Court Case No. 11-2447-JAR, in an amount not to exceed \$13,000.00, are specifically excepted from release. Roach agrees that any interest he may have under the Policy is extinguished, except to the extent required by law or contract provision to preserve the excepted claims. The FDIC does not

release, but instead expressly and fully preserves, any claims against BancInsure, notwithstanding the release of BancInsure by Roach.

D. Express Reservations From Releases By FDIC.

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

a. against Roach 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, the Bank, other financial institutions, or any other person or entity, including without limitation any claims acquired by FDIC as successor in interest to the Bank or any person or entity other than Bank;

b. against any person or entity not expressly released in this Agreement; and

c. which are not expressly released in Paragraph II.A., above.

2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the FDIC in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition or any other administrative enforcement action which may arise by operation of law, rule or regulation.

3. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice, the United States Attorney's Office for the District of Kansas or any other federal judicial district. In addition, the FDIC 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 III: WAIVER OF DIVIDENDS AND PROCEEDS FROM LITIGATION**

To the extent, if any, that Roach is or was a shareholder of the Bank and its holding company, and by virtue thereof is 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 in connection with Columbian or its receivership, he hereby knowingly assigns to the FDIC any and all rights, titles and interest in and to any and all such dividends, payments or other distributions, or such proceeds with the sole exceptions stated in Section II.C., above.

#### SECTION IV: Representations and Acknowledgements

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 that this Agreement is not an admission or evidence of liability by any of them regarding any claim.

B. Execution in Counterparts. 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. Each 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, successors and assigns.

D. 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 Kansas.

E. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between 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 by their respective authorized attorney(s) or other representative(s).

F. Specific Representations Warranties and Disclaimer. Roach expressly acknowledges that in determining to settle the claims released here, the FDIC has reasonably and justifiably relied upon the accuracy of financial information in the personal financial statement he has submitted. If, in his personal financial statement, Roach has failed to disclose any interest, legal, equitable, or beneficial, in any material asset such that disclosure of said asset would have effected a material change in Roach's personal financial statement, Roach agrees to cooperate fully with the FDIC to transfer his interest in the asset to the FDIC and to sign any and all documents necessary to transfer his interest in the asset to the FDIC. Moreover, if, in his personal financial statement Roach has failed to disclose any interest, legal, equitable, or beneficial, in any material asset such that disclosure of said asset would have effected a material change in his personal financial statement, the FDIC in its sole discretion, may exercise one or more or all of the following remedies: (a) the FDIC may declare the releases granted to Roach as null and void; (b) the FDIC may retain the Settlement Funds; (c) the FDIC may sue Roach for damages, an injunction, and specific performance for the breach of this agreement; and (d) the FDIC may seek to vacate any dismissal order and reinstate the FDIC's claims against Roach. Roach agrees that if, in his personal financial statement, he has failed to disclose any interest, legal, equitable, or beneficial, in any material asset such that disclosure of said asset would have effected a material change in his personal financial statement, Roach consents to the reinstatement of the FDIC's claims and waives any statute of limitations that would bar any of the FDIC's claims against him

G. Reasonable Cooperation.

1. Roach agrees to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing or causing his 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. Further, Roach agrees to cooperate fully with the FDIC in connection with any action required under this Agreement, and in any litigation filed by the FDIC against any former directors or officers of Columbian. Any such cooperation that involves any out-of-pocket costs is subject to reasonable reimbursement by the FDIC pursuant to its internal guidelines and policy for such reimbursement. Such cooperation shall consist of:

a. producing all documents requested by the FDIC, without the necessity of subpoena, as determined by the FDIC, in its sole discretion, to be relevant to the Bank;

b. making himself available upon request by the FDIC at reasonable times and places for interviews regarding facts, as determined by the FDIC in its sole discretion, to be relevant to the Bank;

c. appearing to testify, upon request by the FDIC, in any matter determined by the FDIC in its sole discretion, to be related to the Bank, without the necessity of subpoena;

d. signing truthful affidavits upon request by the FDIC, regarding any matter, as determined by the FDIC in its sole discretion, to be relevant to the Bank.

H. Advice of Counsel. Roach acknowledges that he has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to him by his 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.

THE FEDERAL DEPOSIT INSURANCE CORPORATION, its capacity as the receiver of The Columbian Bank and Trust Company

By: Herbert G. Smith II  
Its: Counsel

(b)(6)

[Redacted Signature]

HERBERT G. SMITH II

COMMONWEALTH OF VIRGINIA     )  
  ) ss:  
COUNTY OF ARLINGTON         )

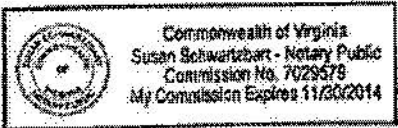
Subscribed and sworn to before me this 8 day of March 2012.

(b)(6)

[Redacted Signature]

Notary Public

My Appointment Expires:





(b)(6)

[Redacted Signature]

Richard L. Roach

STATE OF Florida )  
 ) ss:  
COUNTY OF Palm Beach )

On this 7 day of March 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared, Richard L. Roach, known to me to be the person described herein, who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and Notarial Seal subscribed and affixed in said County and State, the day and year in this certificate above written.

(b)(6)

[Redacted Signature]

Notary Public

My Appointment Expires:

July 5, 2015

