

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made by, between, and among the following undersigned parties: Plaintiff Federal Deposit Insurance Corporation as Receiver for AmTrust Bank (“FDIC-R”), and Defendant Nevada Title Company (“Settling Defendant”) (individually, the FDIC-R and the Settling Defendant may be referred to herein as “Party” and collectively as the “Parties”).

RECITALS

WHEREAS:

Prior to December 4, 2009, AmTrust Bank (“Bank”) was a depository institution organized and existing under the laws of the United States;

On December 4, 2009, the Office of Thrift Supervision 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 the Bank’s claims, demands, and causes of actions that are the subject of this Agreement;

On December 3, 2012, the FDIC-R filed a complaint for money damages against the Settling Defendant and Mark A. Gonzalez. Those claims for damages are now pending in the United States District Court for the District of Nevada (“Court”) in *FDIC v. Nevada Title Company*, Case No. 2:12-cv-02060 (“Action”). The Settling Defendant has denied liability in the 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, Settling Defendant agrees:

1. Settling Defendant shall pay the FDIC-R the sum of six hundred fifty thousand dollars (\$650,000) ("Settlement Payment"), in two installments as follows:

a. Three hundred twenty five thousand dollars (\$325,000) to be paid on or before thirty (30) calendar days following the date on which the FDIC-R executes this Agreement; and

b. Three hundred twenty five thousand dollars (\$325,000) to be paid on or before January 15, 2016.

2. Concurrently with the execution of this Agreement, the Settling Defendant shall execute and deliver to the FDIC-R the Stipulation for Entry of Judgment in the amount of six hundred fifty thousand dollars (\$650,000.00) and [Proposed] Stipulated Judgment attached hereto as Exhibit A. Both the Stipulation for Entry of Judgment and [Proposed] Stipulated Judgment are incorporated by reference herein and their terms are made a part of this Settlement Agreement. The Stipulation for Entry of Judgment and [Proposed] Stipulated Judgment shall be held in trust by the FDIC-R's attorneys of record, and shall not be filed with the Court or used to seek entry of judgment thereon except as provided for in this Agreement.

B. The Settling Defendant shall deliver both installments of the Settlement Payment to the FDIC-R by direct wire transfer into the Mortgage Recovery Law Group Client Trust Account or by certified or cashier's check drawn upon a depository institution acceptable to FDIC-R and made payable to the Mortgage Recovery Law Group Client Trust Account. The Settling Defendant shall deliver the executed Stipulation for Entry of Judgment and [Proposed] Stipulated Judgment by electronic mail and overnight mail to the FDIC-R's attorneys of record, who is designated as Michael Delbick, Esq., Mortgage Recovery Law Group, 700 N. Brand Blvd., Suite 830, Glendale, CA 91203, email: [REDACTED]

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In the event that either installment of the Settlement Payment is not delivered to the FDIC-R (or its counsel) by the date set forth in Section I.A, interest shall accrue on all unpaid amounts at the rate of 5% per annum from such due date until the date of payment.

C. If the FDIC-R does not receive either installment of the Settlement Payment in full on or before the dates determined by Section I.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 date determined by Section I.B above, through the date of payment at the rate of 5% per annum from such due date until the date of payment; or

2. Enforce this Agreement, in which event the Settling Defendant agrees to jurisdiction in United States District Court in Nevada 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. File the Stipulation for Entry of Judgment and [Proposed] Stipulated Judgment and seek entry of judgment thereon, less any amount paid by the Settling Defendant to the FDIC-R pursuant to this Settlement Agreement. In the event that the FDIC-R requests entry of the stipulated judgment against Settling Defendant for Settling Defendant's failure to fully and timely pay in full the Settlement Payment, Settling Defendant agrees not to oppose the entry or enforcement of the stipulated judgment and further agrees to compensate the FDIC-R for all costs, fees, and other expenses incurred by the FDIC-R in entering and enforcing this stipulated judgment in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000). The FDIC-R agrees not to file the Stipulation for Entry of Judgment and [Proposed] Stipulated Judgment and seek entry of judgment thereon without first providing Settling Defendant with notice of non-payment and allowing Settling Defendant fifteen (15) calendar days from the date on which such notice is sent to cure non-payment. Any obligations by the FDIC-R to provide notice of non-payment will be satisfied by delivering notice of non-payment via electronic mail and overnight mail to Settling Defendant's counsel, who is designated as Sheri Thome, Esq., Wilson Elser

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Moskowitz Edelman & Dicker LLP, 300 South 4th Street - 11th Floor, Las Vegas, NV 89101; e-mail: [REDACTED] Robbic Graham, 2500 N. Buffalo Drive, Suite 150, Las Vegas, NV 89128; e-mail: [REDACTED]

4. Terminate the Agreement, move to vacate any dismissal order, to which the Settling Defendant agrees to consent, and re-institute the action on the FDIC-R's claims. The Settling Defendant further agrees to waive any statute of limitations that would bar any of the FDIC-R's claims and waives all objections, defenses, claims, or counterclaims, and covenants and agrees 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

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

Any extension of time under Section I.C.1 for delivery of any installment 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.5 at any time prior to receipt of the 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 each of the Parties, and (2) receipt of both installments 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 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 Defendant and its respective heirs, executors, trustees, 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-R, that arise from or relate to the causes of action alleged in the Action.

B. The Settling Defendant's Release.

Effective simultaneously with the release granted in Section III.A above, the Settling Defendant, on behalf of itself individually, and its respective heirs, executors, trustees, administrators, agents, representatives, attorneys, successors, and assigns, hereby releases and discharges 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 causes of action alleged in the 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 Defendant 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 the 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. § 3663, et. seq., if appropriate.

SECTION IV: 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.

SECTION V: Reasonable Cooperation

A. 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 Action, and to otherwise perform the terms of this Agreement.

SECTION VI: 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.

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 Nevada.

D. Notices. Any notices required hereunder shall be sent by registered mail, first class, return receipt requested, or by email, to the following:

If to the FDIC-R:

Michael Delbick, Esq.
Mortgage Recovery Law Group,
700 N. Brand Blvd., Suite 830
Glendale, CA 91203
(818) 630-7900

If to the Settling Defendant:

Sheri Thome, Esq.
Wilson Elser Moskowitz Edelman & Dicker LLP
300 South 4th Street - 11th Floor
Las Vegas, NV 89101
(702) 727-1400

and

Robbie Graham
2500 N. Buffalo Drive, Suite 150
Las Vegas, NV 89128
(702) 251-5000

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
AMTRUST BANK

(b)(6)

Date: 10/1/2015

By: _____

Title: Counsel, Legal Division

Print Name: Samuel B. Lutz

NEVADA TITLE COMPANY

Date: _____

By: _____

Title: _____

Print Name: _____

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FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
AMTRUST BANK

Date: _____

By: _____

Title: _____

Print Name: _____

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NEVADA TITLE COMPANY

Date: 10/2/2015

By: _____

Title: Senior Vice President

Print Name: Robbie D. Graham