

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 LandMark Bank of Florida ("FDIC-R"); Robert W. Brown, Thomas G. Dabney, Steven E. Greenfield, Sean Powers, Thomas G. Quale, John M. Steele, T. Raymond Suplee (collectively the "Settling Individuals"); and Chartis Specialty Insurance Company ("Chartis" or the "Insurer"). The FDIC-R, the Settling Individuals and the Insurer may be individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS:

Prior to July 22, 2011, LandMark Bank of Florida ("Bank") was a depository institution organized and existing under the laws of the United States;

On July 22, 2011, the Florida Office of Financial Regulation 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;

The FDIC-R has asserted claims for negligence, gross negligence, and breach of fiduciary duty against the Settling Individuals, each of whom served at various times as a director and/or officer of the Bank. The Settling Individuals deny liability for the claims.

Chartis issued Financial Institutions Risk Protector policy number for (b)(4)
Policy Period of June 3, 2011 to June 3, 2012 (the "Policy"), which insured the directors and

officers of the Bank according to the terms, provisions, and conditions of the Policy. The Settling Individuals asserted claims for coverage under the Policy. The Insurer has reserved its rights under the Policy for claims asserted by FDIC-R against the Settling Individuals.

The undersigned Parties deem it in their best interests to enter into this 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 other, as follows:

SECTION I: Payment to FDIC-R

A. As an essential covenant and condition to this Agreement, the Settling Individuals and the Insurer, jointly and severally, agree to pay the FDIC-R the sum of \$650,000 (the "Settlement Payment").

B. Upon execution of an original, or originals in counterpart, of this Agreement by each of the Parties to this Agreement, by the later of September 30, 2014, or seven business days after this Agreement is fully executed, the Insurer, on behalf of the Settling Individuals and for itself, shall deliver the Settlement Payment to the FDIC-R by check pursuant to delivery instructions to be provided by the FDIC-R no later than September 10, 2014. In the event that the Settlement Payment is not delivered to the FDIC-R by the later of September 30, 2014 or seven business days after this Agreement is fully executed, interest shall accrue on all unpaid amounts at the rate of 5% per annum 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 date determined by subsection A above, through the date of payment at a rate calculated in accordance with 26 U.S.C. § 6621(a)(3); or

2. Enforce this Agreement, in which event the Settling Individuals agree to jurisdiction in United States District Court for the Middle District of Florida 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 Individuals agree to consent, and institute an action on the FDIC-R's claims. The Settling Individuals 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.

D. 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: Releases

A. The FDIC-R's Releases.

Upon receipt of the Settlement Payment in full and except as provided in Section II.D., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges:

1. The Settling Individuals and their 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 performance, nonperformance, or manner of performance of the Settling Individuals' respective functions, duties and actions as officers and/or directors of the Bank.

2. The Insurer, 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. As part of this release of the Insurer, the FDIC-R agrees that any interest it may have under the Policy is extinguished.

3. All other former directors, officers, and employees of the Bank as described in the Policy (collectively, the "Covered Persons") and their 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 performance, nonperformance, or manner of performance of the Covered Persons' respective functions, duties and actions as directors, officers and/or employees of the Bank. This release shall be null and void as to any Covered Person if such Covered Person asserts any claim against the FDIC-R.

B. The Settling Individuals' Releases.

1. Effective simultaneously with the release granted in Section II.A. above, the Settling Individuals, on behalf of themselves individually, and their respective heirs, executors, trustees, administrators, agents, representatives, 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, the receivership of the Bank, or to the performance, nonperformance, or manner of performance of the Settling Individuals' respective functions, duties and actions as officers and/or directors of the Bank.

2. Effective simultaneously with the release granted in Section II.C.2. below, the Settling Individuals on behalf of themselves individually, and their respective heirs, executors, trustees, administrators, agents, representatives, attorneys, successors, and assigns, hereby release and discharge the Insurer, 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 arise from or relate to the FDIC-R's claims.

C. The Insurer's Releases.

1. Effective simultaneously with the releases granted in Section II.A. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates and reinsurers, and their successors and assigns, hereby releases and discharges the FDIC-R, and its employees, officers, directors, agents, 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 Policy, or to the receivership of the Bank.

2. Effective simultaneously with the release granted in Section II.B.2. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates, and reinsurers, and their successors and assigns, hereby releases and discharges each of the Settling Individuals under the Policy, 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, that arise from or relate to the Policy.

D. 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 Individuals, the Covered Persons, 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 III: Waiver of Dividends and Proceeds from Litigation

To the extent, if any, that Settling Individuals 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 Individuals 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 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, except Chartis, 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 Information. Each Settling Individual that submitted financial information to the FDIC-R affirms that such financial information was true and accurate to the best of their knowledge and belief as of the date the information was submitted. Each such Settling Individual 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 Individuals. The FDIC-R has no obligation to independently verify the completeness or accuracy of that financial information. If the FDIC-R establishes via a final adjudication in an appropriate judicial forum that a Settling Individual failed to disclose any material interest, legal, equitable, or beneficial, in any asset, the FDIC reserves all its rights as against that Settling Individual, and that Settling Individual agrees to cooperate fully with the FDIC-R to provide updated financial information.

SECTION V: 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 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 Florida.

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:

Kevin W. Wheelwright, Counsel
FDIC Legal Division, Professional Liability Unit
3501 Fairfax Drive, Suite B-7022
Arlington, VA 22226-3500

(b)(6)

And:

Joseph G. Galardi
Beasley Kramer & Galardi, P.A.
505 South Flagler Drive, Suite 1500
West Palm Beach, FL 33401

(b)(6)

If to the Settling Defendants:

W. Bard Brockman
Bryan Cave LLP
1201 West Peachtree Street, NW, Fourteenth Floor
Atlanta, GA 30309-3488

(b)(6) [Redacted]

If to Insurer:

AIG Claims, Inc. as claims administrator for Chartis
Edward Drummond
Vice President, Financial Institutions
175 Water Street, 4th Floor
New York, NY 10038

(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 LANDMARK BANK OF FLORIDA

(b)(6) Date: 9/04/2014

BY: [Redacted]

TITLE: of Counsel
PRINT NAME: Kevin W. Wheelwright

Date: 9/3/14

ROBERT W. BROWN

(b)(6)

PRINT NAME: Robert W. Brown

Date: _____

THOMAS G. DABNEY

PRINT NAME: _____

Date: 9/9/14

STEVEN E. GREENFIELD

(b)(6)

PRINT NAME: STEVEN E. GREENFIELD

Date: 9/9/14

SEAN POWERS

(b)(6)

PRINT NAME: SEAN POWERS

Date: 9/8/14

THOMAS G. QUALE

(b)(6)

PRINT NAME: THOMAS G. QUALE

Date: 9/9/14

JOHN M. STEELE

(b)(6)

PRINT NAME: John M Steele

Date: 9/8/14

T. RAYMOND SUPLEE

(b)(6)

PRINT NAME: T Raymond Suplee

Date: _____

ROBERT W. BROWN

PRINT NAME: _____

Date: 9/8/04

(b)(6)

THOMAS G. DABNEY

[Redacted]

PRINT NAME: Thomas G. Dabney

Date: _____

STEVEN E. GREENFIELD

PRINT NAME: _____

Date: _____

SEAN POWERS

PRINT NAME: _____

Date: _____

THOMAS G. QUALE

PRINT NAME: _____

Date: _____

JOHN M. STEELE

PRINT NAME: _____

Date: _____

T. RAYMOND SUPLEE

PRINT NAME: _____

(b)(6)

AIG CLAIMS, INC. FOR CHARTIS SPECIALITY
INSURANCE COMPANY

(b)(6)

Date: 9/9/14

BY:

TITLE: VP, FL Claims

PRINT NAME: Edward Dymowski

APPROVED AS TO FORM AND CONTENT:

Date: _____

Counsel for FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
LANDMARK BANK OF FLORIDA

Date: _____

Counsel for SETTLING DEFENDANTS

AIG CLAIMS, INC. FOR CHARTIS SPECIALITY
INSURANCE COMPANY

Date: _____

BY: _____
TITLE: _____
PRINT NAME: _____

APPROVED AS TO FORM AND CONTENT:

(b)(6)

Date:

9/15/14



Counsel for FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
LANDMARK BANK OF FLORIDA

(b)(6)

Date:

9/17/14



Counsel for SETTLING DEFENDANTS