

**SETTLEMENT AND RELEASE AGREEMENT, ASSIGNMENT
AND COVENANT NOT TO EXECUTE**

This Settlement and Release Agreement, Assignment and Covenant Not to Execute ("Agreement") is made as of this 11th day of February, 2013, by, between, and among the following undersigned parties:

The Federal Deposit Insurance Corporation, in its capacity as receiver for Bank of Wyoming and not in any other capacity ("FDIC-R"), and Mark W. Birkle, Vivian Butchart, James D. Kirsch, Brian Yarrington, Morgan Larson, James V. Wilson and Willard V. Wilson (collectively, the "Settling Individuals") (individually, the FDIC-R and the Settling Individuals may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

1. Prior to July 10, 2009, the Bank of Wyoming (the "Bank") was a depository institution organized and existing under the laws of the State of Wyoming; and
2. On July 10, 2009, the Bank was closed by the State of Wyoming Department of Audit, Division of Banking and pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed receiver; and
3. The FDIC-R has asserted claims for compensatory damages against the Settling Individuals, related to their conduct as directors, officers and/or employees of the Bank, as stated in demand letters from the FDIC-R to the Settling Individuals, dated on or about April 12, 2012 (the "FDIC-R's Claims"). A true and correct exemplar of the demand letters sent to each of the Settling Individuals is attached hereto as Exhibit "A"; and
4. BancInsure, Inc. ("BancInsure") issued Directors' and Officers' Liability Insurance Policy No. and Extended Professional Liability Insurance Policy No.

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(the "Policies"), which insured the directors and officers of the Bank according to the terms, provisions and conditions of the Policies; and

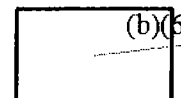
5. Prior to the Bank's failure, by letter dated July 9, 2009, BancInsure was notified by the Bank of circumstances that might give a claim against the Settling Individuals. The Settling Individuals subsequently provided notice in BancInsure of the FDIC-R's Claims under the policies and the FDIC-R provided BancInsure with the specifics of FDIC-R's Claims and relevant documents by letter dated July 20, 2012. A true and correct copy of the July 20, 2012 letter is attached hereto as Exhibit "B". By letter dated June 11, 2012 and again by letter dated November 29, 2012, BancInsure denied coverage for the FDIC-R's Claims under the Policies; and

6. BancInsure has failed and refused to defend the Settling Individuals against any of the FDIC-R's Claims, and has denied any obligation to indemnify the Settling Individuals for any settlement or judgment associated with the FDIC-R's Claims, thereby exposing the Settling Individuals to a substantial judgment against their interests; and

7. The undersigned Parties deem it in their best interests to enter into this Agreement to resolve the FDIC-R's Claims; and

8. The Parties also enter into this Agreement because of (i) BancInsure's refusal to defend, to advance defense costs, and to indemnify the Settling Individuals in connection with the FDIC-R's Claims, (ii) BancInsure's failure to protect the interest of the Settling Individuals by failing and refusing to settle the FDIC-R's Claims; and

9. This Agreement is entered into under the authority of *Gainsco Insurance Company v. Amazo Production Co.*, 2002 Wy 122, 53 P.3d 1051 (Sup. Ct. 2002) and related cases; and



10. BancInsure was provided with notice of this Agreement by the FDIC-R and the Settling Individuals, and was fully advised as to its terms, prior to its execution. BancInsure, however, continued in its refusal to defend the Settling Individuals, or to pay the Settling Individuals' defense costs or indemnify the Settling Individuals with regard to the FDIC-R's Claims.

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: Judgment, Covenant Not To Execute And Assignment Of Rights

A. The FDIC-R and the Settling Individual agree to the entry of a final and binding Confessed Judgment in favor of the FDIC-R and against the Settling Individuals jointly and severally in the amount of \$2,500,000.00 ("Confessed Judgment"), in the form attached hereto as Exhibit "C", or in such other form as is acceptable to the United States District Court for the District of Wyoming. Upon execution of this Agreement by all Parties, counsel for the Parties will have the Confessed Judgment entered by the United States District Court for the District of Wyoming, or, in the discretion of the FDIC-R, in any other Wyoming court of competent jurisdiction in which such a judgment is permissible pursuant to Wyo. Stat. § 1-16-201. The Settling Individuals agree, after consultation with their attorneys, that the amount of the Confessed Judgment is a reasonable calculation of what a jury would reasonably award the FDIC-R as damages should the FDIC-R's claims proceed to trial.

B. Within fourteen (14) days from entry of the Confessed Judgment, Defendants shall pay \$250,000.00 in a lump-sum to FDIC-R ("Lump-Sum Payment").

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C. The FDIC-R agrees that, other than the \$250,000.00 personal contribution described above, in exchange for the Settling Individuals' assignment of insurance rights and proceeds as described below, and subject to the other terms of this Agreement:

1. The FDIC-R agrees to pursue collection of the remaining \$2,250,000 on the Confessed Judgment solely from BancInsure and not from any other personal assets of the Settling Individuals.

2. The FDIC-R agrees not to seek any further relief other than as is provided in this Agreement from the Settling Individuals, their respective heirs, executors, administrators, agents, representatives, successors or assigns, arising out of or relating to the FDIC-R's Claims.

D. FDIC-R may seek to satisfy the Confessed Judgment from BancInsure either by way of an action in its own name as judgment creditor, or, at its option, as assignee of the Settling Individuals.

E. The Settling Individuals, in consideration of FDIC-R's consent to enter into this Agreement, hereby assign to the FDIC-R any and all rights, claims, causes of action, equitable remedies, statutory rights and damages which the Settling Individuals have or may have against BancInsure arising out of or relating to the Confessed Judgment, the FDIC-R's Claims, and/or the Policies, including but not limited to any rights or claims arising in tort, contract, or otherwise relating to (1) BancInsure's duty to indemnify the Settling Individuals for the Confessed Judgment or any judgment against them arising out of or relating to the FDIC-R's Claims, and/or (2) BancInsure's obligation to settle the FDIC-R's claims on behalf of the Settling Individuals. Such claims, causes of action, equitable remedies and statutory rights include, without limitation, claims for declaratory relief, breach of contract, bad faith,

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reformation, negligence, violation of statutes, misrepresentations, fraud, fraud in the inducement, damages, punitive damages, sanctions, attorney fees, and costs (the "Assigned Claims").

F. Despite Paragraph E. above, the Settling Individuals shall retain the right to recover from BancInsure the following: (a) that portion of the Confessed Judgment which the Settling Individuals have paid in settlement of FDIC-R Claims; (b) the attorney fees and other costs of defense incurred by the Settling Individuals in connection with FDIC-R Claims; and (c) the attorney fees and costs incurred by the Settling Individuals to obtain recovery of the above amounts, identified in (a) and (b), from BancInsure (the "Retained Claims"). In addition, the Settling Individuals will provide prompt notice to the FDIC-R of any settlement(s) or agreement(s) they individually or collectively may reach with BancInsure. The Parties agree that any right to recovery from BancInsure pursuant to the Retained Claims shall be subordinate to the FDIC's rights to the Assigned Claims and shall not otherwise prejudice the FDIC-R's rights under this Agreement.

G. The Settling Individuals agree to assist and cooperate reasonably with the FDIC-R in and through the prosecution of any claim, lawsuit or other proceeding against BancInsure arising out of or relating to of the Assigned Claims. The Settling Individuals shall take no action to impede, prevent, impair or otherwise prejudice the FDIC-R's prosecution of the Assigned Claims.

H. The Confessed Judgment referenced in this Agreement, including the portion of the Confessed Judgment agreed to be sought from BancInsure, is not intended as full compensation for the damages that FDIC-R claims to have arisen out of the FDIC-R's Claims. It is recognized by the Parties to this Agreement that the FDIC-R's claim for damages is well in excess of the amounts agreed to hereunder, and that any amounts received by FDIC-R pursuant

to this Agreement constitute a compromise of the FDIC-R's Claims, and is only a partial and incomplete satisfaction of FDIC-R's claim for damages arising out of the incidents giving rise to the FDIC-R's Claims.

I. The Settling Individuals shall deliver the Lump-Sum Payment to the FDIC-R by direct wire transfer into the following account:

(b)(4) Bank: Federal Home Loan Bank of New York
Routing No. [redacted]
For Credit to: FDIC National Liquidation Account
(b)(4) Account No. [redacted]
ORI: FIN 10080: Bank of Wyoming,
Thermopolis, WY
Contact: David C. Joseph, (972) 761-
8648; Professional Liability (37100); DIF
Fund

J. If the FDIC-R does not receive the Lump-Sum Payment on or before the date determined by Paragraph B above, then the FDIC-R, in its sole discretion, shall have the right to:

1. extend the period of time for payment, including interest accruing from the date the Lump-Sum Payment becomes due pursuant to Paragraph B above through the date of payment at a rate calculated in accordance with 26 U.S.C. § 6621(a) (2); or
2. enforce this Agreement and, in such event, the Settling Individuals agree to jurisdiction in the United States District Court for the District of Wyoming and agree to pay all of the FDIC-R's reasonable attorneys' fees and costs expended in enforcing the terms of this Agreement; or
3. terminate this 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 against the Settling Individuals; and/or

4. seek any other relief available to it in law or equity. Any extension of time for delivery of the Lump-Sum 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 bring an action to enforce the Agreement or terminate the Agreement.

SECTION II: Releases

A. The FDIC-R's Release. Upon receipt of the Lump-Sum Payment and Confessed Judgment, the FDIC-R, for itself and its successors and assigns, hereby releases and discharges: the Settling Individuals, their respective heirs, executors, administrators, agents, representatives, successors and assigns, from any and all claims, demands, contracts, obligations, damages, actions, and causes of action, fees, or costs, direct or indirect, in law or in equity belonging to the FDIC-R, based on their actions or failures to act in their respective capacities as directors, officers, and/or employees of the Bank that constitutes liability in excess of that adjudicated by the Court in the Confessed Judgment; and

B. The Settling Individuals' Release. Effective simultaneously with the release in Section II.A. above, the Settling Individuals, on behalf of themselves individually, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge the FDIC-R and its employees, officers, directors, agents, representatives, successors and assigns, from any and all claims that arise from or relate to the Bank; and

C. Release of Settling Individuals by Each Other. Effective simultaneously with the releases granted in Section II.A. and Section II.B. above, the Settling Individuals, and their respective heirs, executors, administrators, representatives, successors and assigns, hereby release and discharge each other 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 performance, nonperformance or manner of performance of their respective functions, duties, and actions as officers, directors and/or employees of the Bank.

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 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 the FDIC-R, the Bank, other financial institutions, or any other person or entity, including without limitation any claims acquired by the 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.

c. pertaining to the enforcement of the Confessed Judgment as contemplated in this Agreement.

2. Notwithstanding any other provision of this Agreement, nothing herein limits, waives, releases, diminishes or compromises the jurisdiction and authority of the Federal Deposit Insurance Corporation (in a capacity other than as FDIC-R) in the exercise of its supervisory or regulatory authority under any statute or regulation, including but not limited to 12 U.S.C. § 1818, 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 of this Agreement, 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 III: Waiver of Dividends and Proceeds from Litigation

To the extent, if any, that Settling Individuals are or were shareholders of the Bank or State 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 FHLBB, OTS, RTC, FDIC, the FSLIC Resolution Fund or the United States government in connection with the Bank, its conservatorship or receivership; they 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 such proceeds.

SECTION IV: Financial Disclosures - Specific Representations, Warranties and Disclaimer

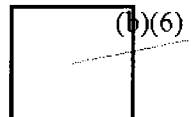
A. Each Settling Individual has submitted to the FDIC-R a signed and notarized Financial Disclosure Form (FDIC-R form 7600/01). The Parties expressly acknowledge that, in determining to settle the claims released herein, the FDIC-R has reasonably and justifiably relied upon the accuracy of the financial information submitted by each Settling Individual to the

FDIC-R. The FDIC-R has no obligation to independently verify the completeness and accuracy of each Financial Disclosure Form.

B. Subsequent to the execution of this Agreement, if the FDIC-R establishes that, in his or her Financial Disclosure Form, a Settling Individual has intentionally 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 of all of the following remedies: (a) the FDIC-R may declare this Agreement null and void as to that Settling Individual; (b) the FDIC-R may retain the full amount of the Lump-Sum Payment; and (c) the FDIC-R may sue that Settling Individual for damages, an injunction or specific performance for breach of this Agreement. The Settling Individual agrees that if, in his or her Financial Disclosure Form, he or she has intentionally failed to disclose any material interest, legal, equitable or beneficial, in any asset, the Settling Individual consents to the reinstatement of the FDIC-R Claims and waives any statute of limitations that would bar any of the FDIC-R Claims against him or her.

SECTION V: 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 of the date this Agreement was signed by the FDIC-R. The inability of the FDIC-R to satisfy any portion of the Confessed Judgment through pursuit of the Assigned Claims, or as a result of a declaration of any court of competent jurisdiction that any provision or term of this Agreement is held to not be enforceable or binding upon BancInsure or that any portion of the FDIC-R's Claims are not covered pursuant to the terms of the Policies or trigger a duty or defend or a duty to indemnify on behalf of BancInsure shall not provide the FDIC-R cause to terminate this Agreement or in any way invalidate the



releases provided by the FDIC-R with respect to the Settling Individuals, as set forth herein in Section II.

SECTION VI: 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:

David C. Joseph
FDIC - Legal Division
1601 Bryan Street
Dallas, TX 75201

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with a copy to:

Kathleen M. Balderston
Nixon Peabody LLP
437 Madison Avenue
New York, NY 10022

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If to the Settling Individuals:

Susan E. Barnes, Esq.
Lindquist Vennum
4200 IDS Center
805 8th Street
Minneapolis, MN 55502

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*Counsel for: Vivian Burchart, James D. Kirach,
James V. Wilson and Willard V. Wilson*

John S. Burbridge, Esq.
Burbridge Law Office, LLC
P.O. Box 223
Cheyenne, Wyoming 82003

(b)(6)

Counsel for: Mark W. Birkle

Frank Farrar, Esq.

(b)(6)

Counsel for Morgan Larson

(b)(6)

Brian Yarrington
100 Yarrington Way
East Thermopolis, Wyoming 82443

(b)(6)

SECTION VII: Representations and Acknowledgments

A. 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.

B. Binding Effect. Each of the undersigned Parties 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.

C. Choice of Law/Forum. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of Wyoming. Any legal action brought to enforce this Agreement shall be brought in the United States District Court for the District of Wyoming, 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 Wyoming District Court for the Fifth Judicial District.

D. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written

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instrument signed by the Party or Parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s).

E. Reasonable Cooperation. 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 the Confessed Judgment and any other documents necessary to conclude the FDIC-R's prosecution of any claim, lawsuit or other proceeding against BancInsure, and to otherwise perform the terms of this Agreement.

F. 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.

G. 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.

H. 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.

I. 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 Bank of Wyoming

(b)(6)
By:

David C. Jones

Its: Senior Attorney

Date: 25 JAN 2013

By:

Mark W. Birkle

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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 Bank of Wyoming

By: _____
David C. Joseph
Its: Senior Attorney
Date: 1-28-13
By: _____
Mark W. Birkle

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Date: [Redacted]
By: Vivian Butchart
Date: 1-25-13

By: Brian Yarrington

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Date: [Redacted]

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By: James D. Kirsch
Date: 1/25/13

By: Morgan Larson

(b)(6)

Date: [Redacted]
By: [Redacted]

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James V. Wilson
1-25-13

(b)(6)

By: Willard V. Wilson
Date: 1-25-13

[Redacted] (b)(6)

Date: _____

By: _____
Vivian Butchart

Date: _____

By: _____
Brian Yarrington

Date: _____

By: _____
James D. Kirsch

Date: _____

(b)(6)

By: _____
Morgan L. _____

(b)(6)

Date: _____ 1-28-13

By: _____
James V. Wilson

Date: _____

By: _____
Willard V. Wilson

Date: _____

Date: _____

By: _____
Vivian Butchart

Date: _____

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By: _____

(b)(6)(6)

Date: _____
Briby [redacted] on
29 JAN 13

By: _____
James D. Kirsch

Date: _____

By: _____
Morgan Larson

Date: _____

By: _____
James V. Wilson

Date: _____

By: _____
Willard V. Wilson

Date: _____

EXHIBIT A



Federal Deposit Insurance Corporation
1801 Bryan Street, Dallas, Texas 75201

Legal Director

April 12, 2012

VIA OVERNIGHT MAIL

Mr. Mark Birkle
c/o Stephen N. Sherard, Esq.
Law Office of Sherard, Sherard & Johnson
602 10th Street
P.O. Box 69
Wheatland, Wyoming 82201

Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolis, Wyoming

Dear Mr. Birkle:

As you may know, on July 10, 2009, the Bank of Wyoming ("BOW" or "the Bank") was closed by the Wyoming Department of Audit, Division of Banking ("WDB") and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its Receiver ("FDIC-R"). By this letter, the FDIC-R makes this written demand for monetary damages and payment of civil damages for losses incurred as a result of improper actions and inactions committed by you that damaged BOW. In your role as a former director and/or officer of BOW, you breached your duties to BOW and were negligent in your conduct of the Bank's affairs.

The FDIC-R asserts claims against you and other directors and/or officers and demands payment of damages for, among other things, your negligence, gross negligence, breach of fiduciary duties, and other applicable claims in connection with your role in the failure of BOW. The FDIC-R asserts that you violated duties owed under Wyoming law and other applicable laws and regulations. Among other things, you failed to discharge your duties with the care an ordinarily prudent person in a like position would exercise under similar circumstances in violation of Wyoming law, including the Wyoming Banking statutes. As a director and/or officer of a bank, you were obligated to ensure that the Bank had safe and sound policies in place to minimize the risk of financial losses. Your actions exposed the Bank to abnormal risk of loss or harm contrary to prudent banking practices, resulting in the Bank's failure. Furthermore, you failed to discharge your duties in a manner you could reasonably have believed to be in the best interests of the Bank.

You and BOW's other directors and officers failed to supervise, manage, conduct, and direct the business and affairs of BOW to ensure compliance with: BOW by-laws; BOW loan policies; applicable laws; regulatory authorities; and safe, sound, and prudent banking principles. These failings include but are not limited to the following acts, errors, misstatements, and omissions:

Insufficient Oversight: Directors and officers failed to provide adequate oversight when they either knew, or should have known, of strategic mistakes, wrongdoing, insufficient or inadequate systems, insufficient or inadequate resources, and operational failures.

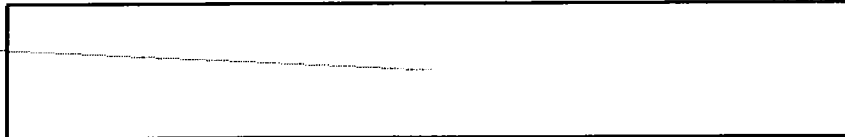
Inadequate Risk Management Practices: Directors and officers failed to implement appropriate risk management procedures, and, as a result, problem loans and significant risks were inadequately controlled.

Deficient Policies and Internal Controls: Directors and officers failed to implement adequate policies, procedures, and controls with respect to the underwriting, approval, documentation and monitoring of loans, failed to establish adequate controls related to repossessed assets, failed to provide adequate oversight of external and internal audit programs, and otherwise failed to promulgate sound internal policies and controls.

Deficient Practices: Many of the acts and omissions of BOW's directors and officers relate to causing or allowing BOW to improperly extend credit by inadequately performing the responsibilities of directors and officers relating to the origination, approval, administration, and monitoring of the Bank's loan portfolio, including, without limitation: commercial real estate loans, other commercial loans, insider-related transactions in violation of Regulation O, and prudent lending practices.

In addition to the claims noted above, and any additional applicable claims, claims for loss from loans exhibiting a number of the deficiencies described above, include, but are not limited to, loans made to the following borrowers:

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These deficiencies demonstrate a pattern and practice of negligent and/or grossly negligent conduct. By these improper actions and inactions, you breached the obligations you owed the Bank, and as a direct and proximate result of your conduct, the FDIC-R suffered losses in the amount of not less than \$7 million. The FDIC-R's investigation is continuing into the total amount of the loss attributable to the conduct of you and the BOW's directors and officers, but presently demands that you promptly pay \$7 million and any additional losses as they are incurred, to the FDIC-R.

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We understand that BancInsure provided coverage for directors' and officers' liability under Policy No. [redacted]. We are providing written notice of this demand for monetary relief by sending a copy of this letter directly to the carrier and strongly recommend that you or your counsel promptly report this claim to BancInsure to protect your rights under the policy.

The FDIC-R reserves all rights and remedies that are or may be available against you, as well as with respect to the applicable insurance policies and applicable law. The FDIC-R does

Page 3
April 12, 2012

not waive any right or remedy available to it. In particular, the FDIC-R is continuing its investigation of this matter and reserves the right to modify and/or supplement its demand herein for monetary damages against you and/or against any BOW director, officer, or employee as well as any third party who provided services to BOW. Be advised that the FDIC-R has been damaged by the losses, in aggregate, resulting from the negligence of the members of the BOW board of directors and Bank officers. The FDIC-R intends and expressly reserves the right to supplement and update this notice.

Sincerely,

(b)(6) [Redacted signature]

(b)(6) (b)(6) [Redacted name]

Senior Attorney

Federal Deposit Insurance Corporation

Professional Liability and Financial Crimes Section

cc: Bancinsure



Federal Deposit Insurance Corporation
1901 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL

Ms. Vivian Butchart
c/o Susan E. Barnes, Esq.
Liquist & Vennum
4200 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

**Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolis, Wyoming**

Dear Ms. Butchart:

As you may know, on July 10, 2009, the Bank of Wyoming ("BOW" or "the Bank") was closed by the Wyoming Department of Audit, Division of Banking ("WDB") and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its Receiver ("FDIC-R"). By this letter, the FDIC-R makes this written demand for monetary damages and payment of civil damages for losses incurred as a result of improper actions and inactions committed by you that damaged BOW. In your role as a former director and/or officer of BOW, you breached your duties to BOW and were negligent in your conduct of the Bank's affairs.

The FDIC-R asserts claims against you and other directors and/or officers and demands payment of damages for, among other things, your negligence, gross negligence, breach of fiduciary duties, and other applicable claims in connection with your role in the failure of BOW. The FDIC-R asserts that you violated duties owed under Wyoming law and other applicable laws and regulations. Among other things, you failed to discharge your duties with the care an ordinarily prudent person in a like position would exercise under similar circumstances in violation of Wyoming law, including the Wyoming Banking statutes. As a director and/or officer of a bank, you were obligated to ensure that the Bank had safe and sound policies in place to minimize the risk of financial losses. Your actions exposed the Bank to abnormal risk of loss or harm contrary to prudent banking practices, resulting in the Bank's failure. Furthermore, you failed to discharge your duties in a manner you could reasonably have believed to be in the best interests of the Bank.

You and BOW's other directors and officers failed to supervise, manage, conduct, and direct the business and affairs of BOW to ensure compliance with: BOW by-laws; BOW loan policies; applicable laws; regulatory authorities; and safe, sound, and prudent banking principles. These failings include but are not limited to the following acts, errors, misstatements, and omissions:

Insufficient Oversight: Directors and officers failed to provide adequate oversight when they either knew, or should have known, of strategic mistakes, wrongdoing, insufficient or inadequate systems, insufficient or inadequate resources, and operational failures.

Inadequate Risk Management Practices: Directors and officers failed to implement appropriate risk management procedures, and, as a result, problem loans and significant risks were inadequately controlled.

Deficient Policies and Internal Controls: Directors and officers failed to implement adequate policies, procedures, and controls with respect to the underwriting, approval, documentation and monitoring of loans, failed to establish adequate controls related to repossessed assets, failed to provide adequate oversight of external and internal audit programs, and otherwise failed to promulgate sound internal policies and controls.

Deficient Practices: Many of the acts and omissions of BOW's directors and officers relate to causing or allowing BOW to improperly extend credit by inadequately performing the responsibilities of directors and officers relating to the origination, approval, administration, and monitoring of the Bank's loan portfolio, including, without limitation: commercial real estate loans, other commercial loans, insider-related transactions in violation of Regulation O, and prudent lending practices.

In addition to the claims noted above, and any additional applicable claims, claims for loss from loans exhibiting a number of the deficiencies described above, include, but are not limited to, loans made to the following borrowers:

(b)(4),(b)
(6)

These deficiencies demonstrate a pattern and practice of negligent and/or grossly negligent conduct. By these improper actions and inactions, you breached the obligations you owed the Bank, and as a direct and proximate result of your conduct, the FDIC-R suffered losses in the amount of not less than \$7 million. The FDIC-R's investigation is continuing into the total amount of the loss attributable to the conduct of you and the BOW's directors and officers, but presently demands that you promptly pay \$7 million and any additional losses as they are incurred, to the FDIC-R.

(b)(4)

We understand that BancInsure provided coverage for directors' and officers' liability under Policy No. [redacted]. We are providing written notice of this demand for monetary relief by sending a copy of this letter directly to the carrier and strongly recommend that you or your counsel promptly report this claim to BancInsure to protect your rights under the policy.

The FDIC-R reserves all rights and remedies that are or may be available against you, as well as with respect to the applicable insurance policies and applicable law. The FDIC-R does

Page 3
April 12, 2012

not waive any right or remedy available to it. In particular, the FDIC-R is continuing its investigation of this matter and reserves the right to modify and/or supplement its demand herein for monetary damages against you and/or against any BOW director, officer, or employee as well as any third party who provided services to BOW. Be advised that the FDIC-R has been damaged by the losses, in aggregate, resulting from the negligence of the members of the BOW board of directors and Bank officers. The FDIC-R intends and expressly reserves the right to supplement and update this notice.

Sincerely,

(b)(6)

[Redacted signature]

(b)(6)

David C. Jones
Senior Attorney
Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure



Federal Deposit Insurance Corporation
1601 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL

Mr. James Kirsch
c/o Susan E. Barnes, Esq.
Liquist & Vennart
4200 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

**Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolls, Wyoming**

Dear Mr. Kirsch:

As you may know, on July 10, 2009, the Bank of Wyoming ("BOW" or "the Bank") was closed by the Wyoming Department of Audit, Division of Banking ("WDB") and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its Receiver ("FDIC-R"). By this letter, the FDIC-R makes this written demand for monetary damages and payment of civil damages for losses incurred as a result of improper actions and inactions committed by you that damaged BOW. In your role as a former director and/or officer of BOW, you breached your duties to BOW and were negligent in your conduct of the Bank's affairs.

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April 12, 2012

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[Redacted signature]

(b)(6)

David C. Joseph
Senior Attorney
Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure



Federal Deposit Insurance Corporation
1601 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL

Mr. Morgan Larson
46611 266th Street
Sioux Falls, South Dakota 57106

**Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopola, Wyoming**

Dear Mr. Larson:

As you may know, on July 10, 2009, the Bank of Wyoming ("BOW" or "the Bank") was closed by the Wyoming Department of Audit, Division of Banking ("WDB") and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its Receiver ("FDIC-R"). By this letter, the FDIC-R makes this written demand for monetary damages and payment of civil damages for losses incurred as a result of improper actions and inactions committed by you that damaged BOW. In your role as a former director and/or officer of BOW, you breached your duties to BOW and were negligent in your conduct of the Bank's affairs.

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[Redacted signature]

(b)(6)

David C. Jos [Redacted]
Senior Attorney
Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure



Federal Deposit Insurance Corporation
1801 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL

Mr. James Wilson
c/o Susan E. Barnes, Esq.
Linquist & Vennum
4200 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

**Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolis, Wyoming**

Dear Mr. Wilson:

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DAVID C. J.
Senior Att
Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure



Federal Deposit Insurance Corporation
1601 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL.

Mr. Willard Wilson
c/o Susan E. Barnes, Esq.
Linquist & Vennum
4200 IDS Center
80 S. 8th Street
Minneapolis, MN 55402

Re: **Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolis, Wyoming**

Dear Mr. Wilson:

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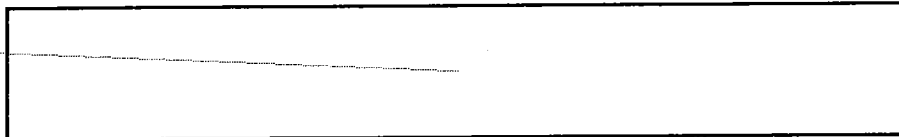
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(b)(6)

[Redacted signature]

(b)(6)

David C. Jose [Redacted]
Senior Attorney
Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure



Federal Deposit Insurance Corporation
1601 Bryan Street, Dallas, Texas 75201

Legal Division

April 12, 2012

VIA OVERNIGHT MAIL

Mr. Brian Yarrington
101 Yarrington Way
East Thermopolis, WY 82443

**Re: Demand for Monetary Relief in connection with Bank of Wyoming,
Thermopolis, Wyoming**

Dear Mr. Yarrington:

As you may know, on July 10, 2009, the Bank of Wyoming ("BOW" or "the Bank") was closed by the Wyoming Department of Audit, Division of Banking ("WDB") and the Federal Deposit Insurance Corporation ("FDIC") was appointed as its Receiver ("FDIC-R"). By this letter, the FDIC-R makes this written demand for monetary damages and payment of civil damages for losses incurred as a result of improper actions and inactions committed by you that damaged BOW. In your role as a former director and/or officer of BOW, you breached your duties to BOW and were negligent in your conduct of the Bank's affairs.

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Sincerely,

(b)(6)

[Redacted signature box]

(b)(6)

David C. Jos
Senior Attorn

Federal Deposit Insurance Corporation
Professional Liability and Financial Crimes Section

cc: BancInsure

EXHIBIT B

This exhibit has been withheld in its entirety under FOIA exemptions 4, 5, 6 & 8

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

Federal Deposit Insurance Corporation,)
as Receiver for Bank of Wyoming,)
)
Plaintiff,)
)
v.)
)
Mark W. Birkle, Vivian Butchart, James D.)
Kirsch, Brian Yarrington, Morgan Larsen,)
James V. Wilson, And Willard V. Wilson,)
)
Defendants.)

(PROPOSED) JUDGMENT

By agreement of the parties, and for good cause shown, it appearing to the Court that the plaintiff, Federal Deposit Insurance Corporation, as receiver for Bank of Wyoming, Thermopolis, Wyoming ("FDIC-R"), brought this action pursuant to Wyo. Stat. § 1-16-201 and under the authority of *Gainsco Insurance Company v. Amoco Production Co.* 2002 Wy 122, 53 P.3d 1051 (Sup. Ct. 2002), in connection with its claims as against the defendants arising out of their actions; and it further appearing that the Plaintiff is entitled to the entry of a final and binding Confessed Judgment in the amount of \$2,500,000.00, it is hereby

ORDERED that FDIC-R is awarded judgment in its favor against defendants under the Complaint herein in the principal amount of \$2,500,000.00, which judgment will be enforced pursuant to the terms of a Settlement and Release Agreement, Assignment and Covenant Not To Execute dated _____ between the Plaintiff and the Defendants; it is further

ORDERED that the Plaintiff FDIC-R and the Defendants will bear their own costs.

SO ORDERED.

U.S. Judge

The undersigned consent and agree to the form
and content of this Confessed Judgment

FEDERAL DEPOSIT INSURANCE CORPORATION
As Receiver for Bank of Wyoming
Professional Liability & Crimes Section
1601 Bryan Street, Room 15069
Dallas, TX 75281
Tel: 972-761-8648

By: _____

David C. Je _____

Its: Senior Attorney

Date: 11 Feb 2013

(b)(6)

(b)(6)

(b)(6)

By: _____

Mark W. Birkie

Date: _____

By: _____

Vivian Butchart

Date: _____

By: _____

Brian Yarrington

Date: _____

By: _____

James D. Kirsch

Date: _____

By: _____

Morgan Larson

Date: _____

U.S. Judge

The undersigned consent and agree to the form
and content of this Confessed Judgment

FEDERAL DEPOSIT INSURANCE CORPORATION
As Receiver for Bank of Wyoming
Professional Liability & Crimes Section
1601 Bryan Street, Room 15069
Dallas, TX 75201
Tel: 972-761-8648

By: _____
David C. Joseph
(b)(6) _____
Its: Senior Attorney
Date: _____

By: _____
Mark W. Birkle
(b)(6) _____
Date: _____
By: _____
Vivian Butchart
Date: 1-25-13

By: _____
Brian Yarrington
(b)(6) _____
Date: _____
(b)(6) _____
James D. Kirseb
1/25/13
By: _____
Morgan Larson
Date: _____

(b)(6)