

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 The RiverBank, Wyoming, Minnesota (“FDIC-R”), and Craig Danielson, Timothy Johnson, Wayne Johnson, Mark Kravik, Joel Danielson, Erwin Danielson, and Douglas Wynveen (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:

Prior to October 7, 2011, The RiverBank, Wyoming, Minnesota (“Bank”), was a depository institution organized and existing under the laws of Minnesota;

On October 7, 2011, the Minnesota Department of Commerce 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.

By letter of May 9, 2014 (the “Demand Letter”), the FDIC-R has asserted claims against certain directors and/or officers of the Bank (the allegations, claims, and demands asserted by the FDIC in the Demand Letter are referred to herein as the “FDIC Claims”). By letters dated August 18, 2014, and August 19, 2014, from counsel for the Settling Individuals named in the

Demand Letter (the “Denial Letters”), those Settling Individuals disputed and denied the FDIC Claims, and denied liability and wrongdoing in connection therewith. Each of the Settling Individuals denies liability to the FDIC-R and denies any wrongdoing, negligence, gross negligence, malfeasance, misfeasance, breach of duty, or any other misconduct, including, without limitation, the FDIC Claims.

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, on or before thirty (30) calendar days following the date the FDIC-R executes this Agreement, the Settling Individuals named in the Demand Letter agree to pay the FDIC-R the sum of \$465,000.00 (“the Settlement Payment”).

B. The Settlement Payment shall be delivered to the FDIC-R by direct wire transfer into an account designated by the FDIC-R by notice to the attorneys for the Settling Individuals. In the event that the Settlement Payment is not delivered to the FDIC-R (or its counsel) on or before thirty (30) calendar days following the date the FDIC-R executes this Agreement or its provision of wire transfer instructions (whichever is latest), interest shall accrue on all unpaid amounts at a rate calculated in accordance with 26 U.S.C. § 6621(a)(3) from the date that the FDIC-R executes this Agreement 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 in Minnesota 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 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 that did not exist or were otherwise unavailable as of the date this Agreement was fully executed, 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.

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 if the Settlement Payment (including all accrued interest) in full is not made before expiration of any such extension.

SECTION II: Releases

A. The FDIC-R's Releases.

Upon receipt of the Settlement Payment in full and except as provided in Section II.C., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges 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, directors, and/or employees of the Bank, including the FDIC Claims.

B. The Settling Individuals' Release.

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, 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.

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 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 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. §§ 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 or its holding company and by virtue thereof are or may be entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank or proceeds in any litigation that has been or could be brought against the 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 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

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 Minnesota. Any action or proceeding to enforce this Agreement or for a breach hereof shall be brought only in the United States District Court for the District of Minnesota and the Parties agree that Minnesota is the only appropriate

venue for any such action or proceeding.

D. Notices.

Any notices required hereunder shall be sent by First Class Registered Mail, return receipt requested, and by email, to the following:

If to the FDIC-R: Lydia Bueschel
Robinson Curley & Clayton, P.C.
300 South Wacker Drive, Suite 1700
Chicago, Illinois 60606

(b)(6) [Redacted]

If to the Settling Individuals: Christianna Finnern
Winthrop & Weinstine
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, Minnesota 55402

(b)(6) [Redacted]

Peter Reinhardt
Bakke Norman
2919 Schneider Avenue, SE
P.O. Box 280
Menomonie, Wisconsin 54751

(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 THE RIVERBANK**

(b)(6)

Date: 11/6/14 BY:
TITLE: Counsel
PRINT NAME: Bryce Quine

Date: _____ CRAIG DANIELSON

Date: _____ MARK KRAVIK

Date: _____ TIMOTHY JOHNSON

Date: _____ WAYNE JOHNSON

Date: _____ DOUGLAS WYNVEEN

Date: _____ JOEL DANIELSON

Date: _____ ERWIN DANIELSON

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 THE RIVERBANK**

Date: _____ BY: _____

TITLE: _____

PRINT NAME: _____

(b)(6)

Date: October 17, 2014


CRAIG DANIELSON

Date: _____

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

Date: _____

WAYNE JOHNSON

Date: _____

DOUGLAS WYNVEEN

Date: _____

JOEL DANIELSON

Date: _____

ERWIN DANIELSON

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 THE RIVERBANK**

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

CRAIG DANIELSON

Date: 10/17/14

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

Date: _____

WAYNE JOHNSON

Date: _____

DOUGLAS WYNVEEN

Date: _____

JOEL DANIELSON

Date: _____

ERWIN DANIELSON

(b)(6)

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 THE RIVERBANK**

Date: _____ BY: _____
TITLE: _____
PRINT NAME: _____

Date: _____
CRAIG DANIELSON

Date: _____
MARK KRAVIK

(b)(6) Date: 10-17-14 _____
TIMOTHY JOHNSON

Date: _____
WAYNE JOHNSON

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 THE RIVERBANK**

Date: _____ BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

CRAIG DANIELSON

Date: _____

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

(b)(6)

Date: 11/5/2014



WAYNE JOHNSON

Date: _____

DOUGLAS WYNVEEN

Date: _____

JOEL DANIELSON

Date: _____

ERWIN DANIELSON

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 THE RIVERBANK**

Date: _____ BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

CRAIG DANIELSON

Date: _____

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

Date: _____

WAYNE JOHNSON

(b)(6)

Date: 10/17/14 _____

DOUGLAS WYNVEEN

Date: _____

JOEL DANIELSON

Date: _____

ERWIN DANIELSON

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 THE RIVERBANK**

Date: _____ BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

CRAIG DANIELSON

Date: _____

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

Date: _____

WAYNE JOHNSON

Date: _____

DOUGLAS WYNKREN

(b)(6) Date: 10-24-14

JOEL DANIELSON

Date: _____

ERWIN DANIELSON

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 THE RIVERBANK**

Date: _____ BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

CRAIG DANIELSON

Date: _____

MARK KRAVIK

Date: _____

TIMOTHY JOHNSON

Date: _____

WAYNE JOHNSON

Date: _____

DOUGLAS WYNVEEN

Date: _____

JOEL DANIELSON

(b)(6)

Date: October 17, 2024 

ERWIN DANIELSON