

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 Bradford Bank (“FDIC-R”), and Dallas R. Arthur, Gilbert D. Marsiglia, John O. Mitchell III, and Mary Beth Taylor (collectively, the “Settling Defendants”), and Federal Insurance Company (“Insurer”). The FDIC-R, the Settling Defendants, and the Insurer may be referred to herein as “Party” and collectively as the “Parties.”

RECITALS

WHEREAS:

Prior to August 28, 2009, Bradford Bank (“Bank”) was a federally chartered savings bank organized and existing under the laws of Maryland.

On August 28, 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 all of the Bank’s claims, demands, and causes of actions against its former directors, officers, and employees arising from the performance, nonperformance, and manner of performance of their respective functions, duties and acts as directors, officers, and/or employees of the Bank.

On February 28, 2014, the FDIC-R filed its complaint for money damages against the Settling Defendants, each of whom served at various times as directors and/or officers of the Bank. Those claims for damages are now pending in the United States District Court for the District of

Maryland in *FDIC as Receiver for Bradford Bank v. Arthur, et al.*, Case No. 1:14-cv-00604 (D. Md.) (“D&O Action”). The Settling Defendants expressly deny liability in the D&O Action.

Federal Insurance Company issued a Forefront Portfolio For Community Banks policy (b)(4) numbered (“Policy”), which insured the directors and officers of the Bank according to the terms, provisions, and conditions of the Policy. The Settling Defendants have asserted claims for coverage under the Policy.

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 the FDIC-R

A. As an essential covenant and condition of this Agreement, the Insurer, on behalf of the Settling Defendants, agrees to pay to the FDIC-R the sum of FOUR MILLION DOLLARS AND NO CENTS (\$4,000,000.00) (the “Settlement Payment”). The Settlement Payment shall be made to the FDIC-R by no later than ten days after full execution of this Agreement.

B. The Settlement Payment to the FDIC-R shall be made by direct wire transfer into an account designated by the FDIC-R by notice to the attorneys for the Settling Defendants and the Insurer.

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 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);

2. Enforce this Agreement, in which event the Settling Defendants and the Insurer who brought about such enforcement action agree to jurisdiction in United States District Court for the District of Maryland and to pay all of the FDIC-R's reasonable attorney's fees and costs expended in enforcing the terms of this Agreement;

3. Terminate the Agreement, move to vacate any dismissal order, to which the Settling Defendants and the Insurer agree to consent, and reinstitute an action on the FDIC-R's claims. The Settling Defendants and the Insurer 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.

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 in full.

SECTION II: Stipulation of Dismissal

Within ten (10) business days after receipt 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 in the form attached hereto as Exhibit A, in the D&O Action.

SECTION III: Releases**A. The FDIC-R's Releases.**

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

1. The Settling Defendants 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 Defendants' respective functions, duties, and actions as officers and/or directors of the Bank, including, without limitation, the causes of action alleged in the D&O Action and any alleged wrongful acts set forth in the prior demand letter to the Settling Defendants dated February 24, 2010 ("Demand Letter").

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 (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, including without limitation the causes of action alleged in the D&O Action and any alleged wrongful acts set forth in the Demand Letter. 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 Defendants' Releases.

Effective simultaneously with the release granted in Section III.A. above, the Settling Defendants, on behalf of themselves individually, and their respective heirs, executors, trustees, administrators, agents, representatives, attorneys, successors, and assigns, hereby release and discharge:

1. 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 Defendants' respective functions, duties, and actions as officers and/or directors of the Bank, including, without limitation, the causes of action alleged in the D&O Action and any alleged wrongful acts set forth in the Demand Letter.

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 D&O Action and any alleged wrongful acts set forth in the Demand Letter.

3. Each other Settling Defendant 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 and/or directors of the Bank, including, without limitation, the causes of action alleged in the D&O Action and any alleged wrongful acts set forth in the Demand Letter.

C. The Insurer's Releases.

Effective simultaneously with the releases granted in Section III.A. above, the Insurer, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, successors and assigns, hereby releases and discharges:

1. 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, the D&O Action, and any alleged wrongful acts set forth in the Demand Letter.

2. Each of the Settling Defendants 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 D&O Action and any alleged wrongful acts set forth in the Demand Letter.

D. Exceptions from Releases By the 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 a 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 him or it to FDIC-R, the Bank, other financial institutions, or any

other person or entity, including without limitation any such claims acquired by the 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 IV: Representations and Acknowledgement

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, 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.

C. Financial Disclosure Representation. Each Settling Defendant has submitted financial information to the FDIC-R including Personal Financial Statements and herein affirms that his or its financial information is true and accurate as of the date it was delivered to the FDIC-R and there have been no material changes to each Settling Defendant's financial information since that date and up and until the date of this Agreement. Each Settling Defendant 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 Defendants. 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 Defendant failed to disclose any material interest, legal, equitable, or beneficial, in any asset, that Settling Defendant agrees to cooperate fully with the FDIC-R to provide updated financial information and to pay to the FDIC-R the lesser of (1) the value of the Settling Defendant's undisclosed material interest in such asset(s); or (2) the amount of unpaid damages alleged against that Settling Defendant.

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 conclude the D&O 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 the Settling Defendants maintain their express denial of the FDIC-R's allegations, and 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 Maryland.

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:

John V. Church
Counsel, Federal Deposit Insurance Corporation
3501 Fairfax Drive, # B-7056
Arlington, Virginia 22226

(b)(6) _____ [Redacted]

and

Ward B. Coe, III
Gallagher Evelius & Jones, LLP
Park Charles, Suite 400
218 North Charles Street
Baltimore, Maryland 21201

(b)(6) [Redacted]

If to the Settling Defendant Arthur:

Dallas A. Arthur
413 Fox Chapel Drive
Lutherville, Maryland 21093

and

Steven A. Allen
Pessin Katz Law, P.A.
901 Dulaney Valley Road
5th Floor
Towson, Maryland 21204

(b)(6) [Redacted]

If to the Settling Defendants Marsiglia and Mitchell:

Gilbert D, Marsiglia
11965 Mays Chapel Road
Timonium, Md. 21093

John O. Mitchell
6500 York Road
Baltimore, MD 21212

and

Craig D. Roswell
Niles, Barton & Wilmer
111 S. Calvert Street
Suite 1400
Baltimore, Maryland 21202

(b)(6) [Redacted]

If to the Settling Defendant Taylor:

Mary Beth Taylor
1262 Dockside Circle
Baltimore, Maryland 21224

and

David Shuster
Kramon & Graham, P.A.
One South Street
Suite 2600
Baltimore, Maryland 21202

(b)(6) _____ [Redacted]

If to Federal Insurance Company:

Attn: Claims Department
Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

and

Linda J. Quartermain, Esquire
Senior Claim Officer
Chubb Group of Insurance Companies
82 Hopmeadow Street
Simsbury, Connecticut 06070

(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. All Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to the Federal Deposit Insurance Corporation's applicable Policy, 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 BRADFORD BANK

Date: 12/22/2015

BY: (b)(6)

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: _____

DALLAS R. ARTHUR

Date: _____

GILBERT D. MARSIGLIA

Date: _____

JOHN O. MITCHELL III

Date: _____

MARY BETH TAYLOR

FEDERAL INSURANCE COMPANY

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

#544551

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 BRADFORD BANK

Date: _____

BY: _____

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: DECEMBER 19, 2015

DALLAS R. ARTHUR 



(b)(6)

Date: _____

GILBERT D. MARSIGLIA

Date: _____

JOHN O. MITCHELL III

Date: _____

MARY BETH TAYLOR

FEDERAL INSURANCE COMPANY

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

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 BRADFORD BANK

Date: _____

BY: _____

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: _____

DALLAS R. ARTHUR

Date: 12/22/15

GILBERT D. MARSIGLIA



(b)(6)

Date: _____

JOHN O. MITCHELL III

Date: _____

MARY BETH TAYLOR

FEDERAL INSURANCE COMPANY

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

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 BRADFORD BANK

Date: _____

BY: _____

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: _____

DALLAS R. ARTHUR

Date: _____

GILBERT D. MARSIGLIA

Date: Dec. 15, 2015

JOHN O. MITCHELL III

[Redacted Signature]

(b)(6)

Date: _____

MARY BETH TAYLOR

FEDERAL INSURANCE COMPANY

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

54455

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 BRADFORD BANK

Date: _____

BY: _____

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: _____

DALLAS R. ARTHUR

Date: _____

GILBERT D. MARSIGLIA

Date: _____

JOHN O. MITCHELL III

Date: 12/21/15

MARY BETH TAYLOR

[Redacted Signature]

(b)(6)

FEDERAL INSURANCE COMPANY

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

#544551

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 BRADFORD BANK

Date: _____

BY: _____

TITLE: Counsel

PRINT NAME: John V. Church

SETTLING DEFENDANTS

Date: _____

DALLAS R. ARTHUR

Date: _____

GILBERT D. MARSIGLIA

Date: _____

JOHN O. MITCHELL III

Date: _____

MARY BETH TAYLOR

FEDERAL INSURANCE COMPANY

Date: 12-21-15

BY: (b)(6)

TITLE: Claims officer

PRINT NAME: Linda J. Quateman

#544551

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

**FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER
FOR BRADFORD BANK**

Plaintiff

v.

DALLAS R. ARTHUR, *et al.*

Defendants

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Civil Action No. RDB 14-604

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STIPULATION OF DISMISSAL WITH PREJUDICE

The parties, by their attorneys, hereby stipulate that this action shall be dismissed with prejudice.

Respectfully submitted,

Ward B. Coe, III – Fed. Bar No. 00282
Paul S. Caiola – Fed. Bar No. 23940
Anatoly Smolkin – Fed. Bar No. 18618
GALLAGHER EVELIUS & JONES LLP
218 North Charles Street, Suite 400
Baltimore, Maryland 21201
Telephone: (410) 727-7702
Facsimile: (410) 468-2786

(b)(6)

*Attorneys for Plaintiff Federal Deposit
Insurance Corporation as Receiver for
Bradford Bank*

EXHIBIT A

/s/ Steven A. Allen

Steven A. Allen – Fed. Bar No. 00607
Alexandra P. Moylan – Fed. Bar No. 29342
Pessin Katz Law, P.A.
901 Dulaney Valley Road, Suite 400
Towson, Maryland 21204
(410) 938-8800

(b)(6)



Attorneys for Defendant Dallas R. Arthur

/s/ Stuart M.G. Seraina

David J. Shuster – Fed. Bar No. 23120
Stuart M.G. Seraina – Fed. Bar No. 25971
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202
(410) 752-6030

(b)(6)



Attorneys for Defendant Mary Beth Taylor

/s/ Craig D. Roswell

Craig D. Roswell (Fed. Bar No. 09529)

(b)(6)



Niles, Barton & Wilmer, LLP
111 S. Calvert Street, Suite 1400
Baltimore, Maryland 21202
(410) 783-6300

*Attorneys for Defendants Gilbert D. Marsiglia
and John O. Mitchell, III*

Date: December __, 2015