

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into by and between The Federal Deposit Insurance Corporation ("FDIC" or "Plaintiff"), as receiver for IndyMac Bank, F.S.B. ("IndyMac"), on the one hand, and Trevor Rupnarain, an individual and Rupnarain and Associates, LLC (collectively, "Rupnarain"), on the other hand. The FDIC and Rupnarain are referred to collectively as the "Parties."

A. WHEREAS, there is a pending civil action by the FDIC against Rupnarain entitled *Federal Deposit Insurance Corporation as Receiver of IndyMac Bank, F.S.B. v. Trevor Rupnarain, et al.*, pending in United States District Court, Eastern District of New York, Case No. CV 11-3218 ("Action"); and

B. WHEREAS, without admitting liability, the Parties desire to resolve the FDIC's claims against Rupnarain, including, but not limited to, all issues raised in the Action.

NOW, THEREFORE, in consideration of the undertakings contained in this agreement, and other good, valuable and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Preamble, Recitals and Exhibits. The foregoing preamble and recitals are true and correct and are integral parts of this agreement.

2. Settlement Payment. Upon the execution of this Agreement by the parties, the entire settlement amount is \$200,000 ("Settlement Amount"), is payable to "Ellenoff Grossman & Schole LLP Client Trust Account."

3. Dismissal of the Action. Upon the execution of this Agreement by the parties, their respective attorneys shall execute and file a Stipulation of Dismissal with prejudice in the form attached hereto as Exhibit "A."

4. Release by Plaintiff. Plaintiff hereby releases and forever discharges Rupnarain and his current and former employees, officers, agents, sureties, bonding companies, insurers, attorneys, companies, successors, assigns and affiliates (collectively, the "Released Parties"), of and from any and all claims, and demands of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of: (a) the claims or causes of action set forth in this Action; (b) the facts, occurrences and transactions alleged therein, including the Subject Loan alleged in the Action, and (c) any other claims or causes of action Plaintiff or IndyMac may have against Rupnarain and the Released Parties, including any claims or causes of action relating to other transactions involving IndyMac or other loans given by IndyMac, except as expressly reserved in Paragraph 6, below (collectively, the "Released Claims").

5. Express Reservations from Release by Plaintiff. Notwithstanding any other provision contained herein, by this agreement, Plaintiff does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims brought on behalf of another failed institution or another governmental entity, or any claims asserted in the Action arising from the closing of the Subject Loan. This agreement does not purport to waive, nor is it intended to waive, any claims which could be brought by the United States through the Department of Justice, the United States Attorney's Office, or any other federal department or agency.

6. Release by Rupnarain. Rupnarain hereby releases and forever discharges Plaintiff and its current and former officers, directors, employees, agents, insurers, attorneys, subsidiaries, predecessors, related companies, parent companies, successors, assigns, and affiliates, of and

from any and all claims, and demands of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims set forth in the Action.

7. No Admission of Liability. Plaintiff acknowledges that this agreement does not constitute an admission by Rupnarain as to the merits of any claim that the FDIC or its predecessors in interest, including IndyMac, has asserted, or could have asserted, in the Action and that Rupnarain has denied and continues to deny that he has any liability to Plaintiff as alleged in the Action. Likewise, Rupnarain acknowledges that this agreement does not constitute an admission by Plaintiff that any asserted claim is or was in any way lacking in merit, and Rupnarain also acknowledges that this agreement does not constitute an admission by Plaintiff as to the merits of any claim that Rupnarain has asserted, or could have asserted, in the Action. Nevertheless, Plaintiff and Rupnarain have concluded that continued litigation would be expensive and protracted and that it is desirable that the Action be settled fully and finally as between Plaintiff and Rupnarain in the manner and upon the terms and conditions set forth in this agreement.

8. Representations and Warranties.

- a. Plaintiff and Rupnarain have received independent legal advice from attorneys of their choice with respect to the advisability of entering into this Agreement and of giving the releases provided herein.
- b. In connection with the execution of this Agreement and the making of the settlement provided for herein, no Party to this Agreement has relied upon any

statement, representation or promise of any other Party not expressly contained herein.

- c. This Agreement is fully integrated and contains the entire agreement of the Parties hereto. There are no agreements or understandings between the Parties hereto relating to the matters and releases referred to in this Agreement other than as set forth in this Agreement, and this Agreement supersedes and replaces any and all prior negotiations and agreements between the Parties hereto, whether written or oral.
- d. Plaintiff and Rupnarain have made such investigation of the facts pertaining to the releases contained herein as they deem necessary.
- e. The terms of this Agreement are contractual and are the result of negotiation among the Parties. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the role of the Party in drafting and preparation of the Agreement shall not be referred to in order to construe the Agreement against that Party, and that canon of contractual interpretation shall not be applied.
- f. This Agreement has been carefully read by each of the Parties and the contents thereof are known and understood by each of the Parties. This Agreement is signed freely by each Party executing it.
- g. The Parties have not assigned or transferred any of their claims being released herein.

9. Consideration. The consideration received in connection with this Agreement is fair, adequate and substantial and consists only of the terms set forth in this Agreement.

10. Modifications. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement subscribed by all of the Parties to be charged with such modification.

11. Agreement Binding on Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective officers, directors, joint venturers, partners, employees, agents, servants, heirs, administrators, executors, successors, representatives and assigns.

12. Applicable Law. This Agreement has been negotiated and exchanged in the State of New York. As such, this Agreement and all matters relating thereto shall be governed by the laws of the State of New York without regard to its principles of conflicts of law. In addition, in the event of any disputes arising between the Parties out of this Agreement, the Parties agree that the exclusive venue in which all disputes shall be resolved shall be by way of an action filed in the United States District Court for the Eastern District of New York.

13. Execution and Delivery Required – Effective Date. This instrument shall not be considered to be the Agreement (defined above) or an enforceable contract, nor shall it create any obligation whatsoever on the part of any or all of the Parties, nor shall it or any of its terms constitute an undertaking by any of the Parties unless and until the date on which counterparts of it have been signed by and exchanged amongst all Parties (via facsimile, e-mail or otherwise) (the “Effective Date”). Until the Effective Date, any Party who may already have signed and exchanged one or more counterparts of this agreement with other Parties shall have the right to revoke such signature. On the Effective Date, this instrument shall become the Agreement and shall become a binding and enforceable contract.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument. Signatures on this Agreement, or any counterpart of this Agreement, transmitted by facsimile machine or electronic mail in .pdf format shall have the same force and effect as original signatures.

15. Construction. Each of the masculine, feminine and neuter genders shall include the others. The singular shall include the plural and vice-versa.

16. Severability. In the event any provision of this Agreement shall be held to be void, voidable or unenforceable, the remaining provisions shall remain in full force and effect.

17. Warranty of Authority. Each Party or attorney whose signature is affixed hereto in a representative capacity represents and warrants that he or she is authorized to execute this agreement on behalf of the entity on whose behalf his or her signature is affixed and that he or she is acting in the scope of such agency and authority. Each Party specifically represents and warrants that no signatures other than those made on this Agreement are necessary to bind the Parties to all of the obligations imposed by the Agreement.

18. Attorneys' Fees and Costs. Plaintiff and Defendants each agree to pay their own costs, attorneys' fees and expenses incurred in connection with the Action.

19. Captions and Headings. The captions, paragraph numbers and paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of this agreement, nor in any way effect this Agreement.

20. Remedies. All Parties shall be entitled to all remedies available at law or in equity for any violation of this Agreement, including, but not limited to the remedy of specific performance.

21. Further Assurances. The Parties shall execute such other documents as may be reasonably necessary to carry out the terms and conditions of this Agreement.

22. Survival. All warranties, representations, covenants, and agreements set forth herein shall survive the Effective Date.

23. Waiver. The waiver by one Party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such Party of any other covenant or condition or of any later instance of the previously waived covenant or condition. The waiver by any Parties of the time for performing any act shall not constitute a waiver at the time for performing any other act or an identical act required to be performed at a later time.

24. Jury Trial Waiver. The Parties hereby waive any and all rights that they may otherwise have to a trial by jury in any action, proceeding, claim, counterclaim or third party complaint, whether in contract or tort, at law or in equity, arising out of or in any way related to this Agreement.

25. Entire Agreement. This Agreement contains the complete agreement of the Parties concerning the subjects of this agreement and supersedes all prior drafts of this Agreement and all other prior agreements, promises, acknowledgements, representations and warranties, if any, that may have been made between or among the Parties concerning that subject of this agreement, whether in connection with the negotiation of this agreement or otherwise. This agreement has been the product of negotiation. The Parties have had the opportunity to obtain

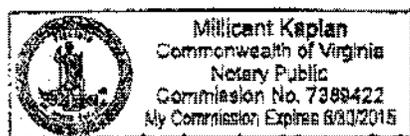
Independent advice from counsel. Prior draft documents were prepared, exchanged and discussed by some or all of the Parties before finally reaching and entering into this agreement. In any number of instances, words used in prior drafts may have been changed or removed from the language ultimately agreed to in this Agreement. In the event of a dispute over the meaning of any of the provisions or requirements of this Agreement, the fact that other words may have been used or deleted from earlier draft documents or provisions in such draft documents that were modified before being included herein, shall not be used to aid in the construction of the meaning and legal effect of this Agreement. This Agreement may not be modified or changed except by a written instrument executed by all of the Parties and no rights under it may be waived except by a writing signed by the waiving Party. No promises, representations, warranties, agreements or other understandings exist between the parties with respect to the subject matter of this agreement, and this agreement supersedes and discharges any and all prior promises, acknowledgements, representations, warranties, agreements or other understandings that existed or may have existed between the Parties.

Dated: November 7th, 2012

By:
RICHARD S. GILL
Authorized on behalf of the FDIC as receiver
for IndyMac Bank, F.S.B.

(b)(6)

COMMONWEALTH OF VIRGINIA)
) ss.:
COUNTY OF ARLINGTON)



On the 7th day of November, 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD S. GILL, to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as counsel for The Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B., and that by his signature on the instrument, the entities upon behalf of which he acted executed the instrument.

(b)(6)

Notary Public (b)(6)

Dated: November 20th, 2012

By:

Trevor Rupnarain, authorized signatory

(b)(6)

By:

Trevor Rupnarain, authorized on behalf of
Rupnarain and Associates, LLC

(b)(6)

STATE OF NEW YORK)

COUNTY OF Queens) ss.:

On the 20th day of November, 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared **TREVOR RUPNARAIN**, to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same and that by his signature on the instrument, he acted executed the instrument.

ASEF ALI
Notary Public, State of New York
No. 01AL8206097
Qualified in Queens County
Expires 08/10/2015
Notary Public 13

(b)(6)