

**SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release ("Agreement") is made as of this 31st day of October, 2012, by, between, and among Federal Deposit Insurance Corporation, as receiver of Independent Bankers' Bank ("FDIC-R"); John D. Schneider, Jr., Mark Altadonna, Rick L. Catt, John H. Colvin, David W. Combs, John Jones, E. Ray Duncan, Greg Ohlendorf, Robert Narmont, David Nosbisch, Mark L. Ribelin, John Konkle, Ryan Warner, Gary Edwards, Allen Schmafe, Diane McCluskey, Catherine Bryant, Jerald Sheley, Michael Neill, and Joseph Werner (collectively, the "Settling Individuals"); and Federal Insurance Company (the "Insurance Company") (individually, the FDIC-R, the Settling Individuals, and the Insurance Company may be referred to herein as "Party" and collectively as the "Parties").

**RECITALS**

**WHEREAS:**

1. Prior to December 18, 2009, Independent Bankers' Bank ("Bank") was a depository institution organized and existing under the laws of the United States;
2. On December 18, 2009, the Illinois Department of Financial and Professional Regulation closed the Bank and appointed the FDIC-R as its 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.
3. The FDIC-R asserts that the Bank's assets now belonging to the FDIC-R include any and 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;

4. The FDIC-R asserts claims against the Settling Individuals, each of whom served at various times as directors and/or officers of the Bank. The Settling Individuals deny liability.

5. The Insurance Company issued a directors' and officers' liability policy number (b)(4) [redacted] (the "Policy"), which insured the directors and officers of the Bank according to the terms, provisions, and conditions of the Policy. The Insurance Company also issued a directors'

(b)(4) and officers' excess insurance policy number [redacted] (the "Excess Policy"). The Settling Individuals asserted claims for coverage under the Policy. The Insurance Company reserved its rights to deny coverage under the Policy for the claims asserted by FDIC-R against the Settling Individuals.

6. The undersigned parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, each with the other, as follows:

**SECTION I: Payment to FDIC-R.**

A. As an essential covenant and condition to this Agreement, the Insurance Company, on behalf of the Settling Individuals, agrees to pay the FDIC the sum of \$4,095,000 (the "Settlement Payment") by way of wire transfer to:

BANK: Federal Home Loan Bank of New York

ROUTING #: [redacted]

FOR CREDIT TO: FDIC National Liquidation Account

ACCOUNT [redacted]

OTHER BENEFICIARY INFORMATION (OBI): [redacted] Independent (b)(4)

Banker's Bank, Springfield, IL; Contact: John Letteri, 705-562-6297; Professional

Liability [redacted] DIF Fund; Asset No. [redacted]

B. The Settlement Payment shall be delivered to the FDIC by direct wire transfer as described in Paragraph A, above, on or before 30 days after the Insurance Company's receipt of the Agreement executed by FDIC-R (the "Due Date").

C. If the FDIC-R does not receive the Settlement Payment in full on or before the Due Date, then the FDIC-R, in its sole discretion, shall have the right to enforce this Agreement. In such event, the Settling Individuals and the Insurance Company agree to jurisdiction in the Federal District Court in Chicago, Illinois.

#### **SECTION II: Releases.**

##### **A. The FDIC-R's Release.**

1. Upon receipt of the Settlement Payment and except as provided in PARAGRAPH I.E., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges the Settling Individuals, all other former and current directors and officers of Bankers' Bancorp, Inc. (the "Holding Company"), all other former directors and officers of the Bank, and all of the other employees, officers, directors, agents, representatives, attorneys, heirs, executors, administrators, successors and assigns of the Holding Company and Bank (collectively the "Releasees"), from any and all claims, demands, contracts, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity (hereinafter, "Claims") belonging to or that ever did belong to the FDIC-R against the Releasees, that arise from or relate to the Releasees' performance, nonperformance or manner of performance of their respective functions, duties and actions concerning the Bank and/or Holding Company, including but not limited to their actions or failures to act in their respective capacities as directors, officers and/or employees of the Bank. This release includes, but is not limited to, any and all Claims the

FDIC-R has or ever had against the Releasees under FIRREA, and all other statutory and common law claims.

2. Upon receipt of the Settlement Payment and except as provided in Paragraph I.E, the FDIC-R, for itself and its successors and assigns, hereby releases and discharges the Insurance Company, its parents, subsidiaries, affiliates and reinsurers, and their respective 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 Insurance Policies. The FDIC-R agrees that any interests it may have under the Policies shall be extinguished upon receipt of the Settlement Funds.

B. The Settling Individuals' Release.

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

C. The Insurance Company's Release.

Effective simultaneously with the releases granted in Paragraphs II.A and B. above, the Insurance Company, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates, and reinsurers, and their successors and assigns, hereby releases and discharges the FDIC-R and its employees, officers, directors, agents, representatives, attorneys, successors and assigns, from any and all Claims that arise from or relate to the Policies or the Bank.

D. Release of Settling Individuals by Each Other

Effective simultaneously with the releases granted in Paragraphs II.A, B, and C, above, the Settling Individuals, and their respective heirs, executors, administrators, representatives, attorneys, successors and assigns, hereby release and discharge each other, and/or any person who may be considered an "insured," as defined by the Insurance Policies, 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.

E. 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 claims acquired by FDIC-R as successor in interest to the Bank or any person or entity other than Bank; and

b. against any person or entity not expressly released by the FDIC-R in this Agreement.

2. Notwithstanding any other provision of this Agreement, nothing herein limits, waives, releases, diminishes or compromises the jurisdiction and authority of any

appropriate federal banking regulator in the exercise of its supervisory or regulatory authority to institute administrative enforcement or other proceedings seeking removal, prohibition, civil penalties, restitution or other relief it may be 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.

**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 the 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 United States government or any agency or department thereof in connection with the Bank, its conservatorship or receivership; Settling Individuals hereby knowingly assign to the FDIC-R any and all rights, title and interest in and to any and all such dividends, payments or other distributions, or proceeds.

Notwithstanding the above, the FDIC-R acknowledges that it has no claim or right to or interest in the \$16,259.00 currently in the Holding Company's bank account, which represents the funds for certain dividend checks that were not cashed by certain Holding Company shareholders (the "Unpaid Dividends"). The waiver and assignment of dividends above shall not apply to the Unpaid Dividends.

**SECTION IV: 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:

John C. Letteri  
Counsel, Legal Division  
Federal Deposit Insurance Corporation  
3501 North Fairfax Drive, Room B-7030  
Arlington, VA 22226

If to the Settling Individuals:

*John D. Schneider, Mark L. Ribelin, and John Konkle*

Randall M. Lending  
Vedder Price P.C.  
222 N. LaSalle Street  
Suite 2400  
Chicago, IL 60601  
T: (312) 609-7564

(b)(6)

*Mark Altadonna, Rick Catt, John Colvin, David Combs, E. Ray Duncan, Gary Edwards,  
John Jones, David Nosbisch, and Ryan Warner*

Michael H. Gottschlich  
Barnes & Thornburg LLP  
11 S. Meridian Street  
Indianapolis, IN 46204-3535  
T: (317) 231-7834

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*Robert Narmont and Allen Schmale*

Harvey M. Stephens  
Brown, Hay & Stephens, LLP  
205 S. Fifth St., Suite 700  
P.O. Box 2459  
Springfield, IL 62705  
T: (217) 241-6839

(b)(6)

*Greg Ohlendorf*

Mark D. Belongia  
Roetzel & Andress  
20 S. Clark Street  
Suite 300  
Chicago, IL 60603  
T: (312) 582-1605

(b)(6) [Redacted]

*Diane McCluskey, Catherine Bryant, Jerald Sheley, and Michael Neill*

Charmagne T. Sutherland  
Tressler LLP  
233 S. Wacker Drive  
22nd Floor  
Chicago, IL 60606  
T: (312) 627-4136

(b)(6) [Redacted]

*Joseph Werner*

Todd A. Rowden  
Thompson Coburn LLP  
55 E. Monroe Street  
37th Floor  
Chicago, IL 60603  
T: (312) 580-2229

(b)(6) [Redacted]

If to the Insurance Company:

Kimberly H. Behling  
Senior Claims Examiner, Specialty Claims  
Chubb Group of Insurance Companies  
120 Fifth Avenue, Pittsburgh, PA 15222-3008  
T: (412) 456-8009

(b)(6) [Redacted]



**SECTION V: 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 hereto except to enforce its terms.

B. 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.

C. Binding Effect.

All of the undersigned persons 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, attorneys, successors and assigns.

D. Entire Agreement.

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. No representations, warranties or inducements have been made to or relied on by any party concerning this Agreement and its exhibits other than those contained therein.

E. Amendments.

This Agreement may not be amended or modified, nor may any of its provisions be waived, except in writing by the party or parties bound thereby, or by their respective authorized attorney(s) or other representative(s).

F. 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 any documents necessary to perform the terms of this Agreement.

G. Choice of Law.

This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the internal laws of the State of Illinois, without regard to its conflicts of laws.

H. Forum.

Any legal action brought to enforce this Agreement shall be brought in the United States District Court for the Northern District of Illinois, 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 Circuit Court for Cook County, Illinois.

I. 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.

J. 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.

K. 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.

L. 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 Independent Bankers' Bank

(b)(6) \_\_\_\_\_  
By: 

Print Name: JOHN LESTER

Title: COUNSEL

Date: OCTOBER 31, 2012

FEDERAL INSURANCE COMPANY

(b)(6)

By:

[Redacted Signature Box]

Print Name: David F. Stemmler

Title: AVP

Date: 11-5-12

JOHN D. SCHNEIDER, JR.

MARK ALTADONNA

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RICK L. CATT

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DAVID W. COMBS

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FEDERAL INSURANCE COMPANY

By: \_\_\_\_\_

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JOHN D. SCHNEIDER, JR.

MARK ALTADONNA

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Dated: Nov 2, 2012

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JOHN D. SCHNEIDER, JR.

MARK ALTADONNA



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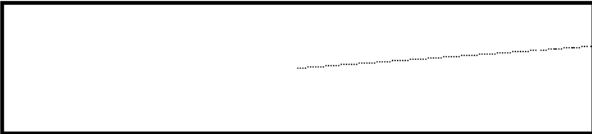
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(b)(6)

Dated: Nov 3, 2012

CATHERINE BRYANT

JERALD SHELEY

(b)(6)



Dated: 11/2/2012

Dated: \_\_\_\_\_

MICHAEL NEILL

JOSEPH WERNER

Dated: \_\_\_\_\_

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CATHERINE BRYANT

JERALD SHELEY

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MICHAEL NEILL

JOSEPH WERNER

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CATHERINE BRYANT

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MICHAEL NEILL

JOSEPH WERNER

(b)(6)



Dated: November 3, 2012

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CATHERINE BRYANT

JERALD SHELEY

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MICHAEL NEILL

JOSEPH WERNER

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Dated: Oct 31 2012

