

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 6th day of March, 2013, by, between, and among the following undersigned parties:

The Plaintiff Federal Deposit Insurance Corporation ("FDIC"), as receiver of Town Community Bank and Trust ("FDIC-R"), and Frank Girona, Paul McAllister, Anthony Montalbano, and Daniel Regan (collectively the "Settling Defendants"), and Federal Insurance Company ("Insurance Company") (individually, the FDIC-R, the Individual Defendants and the Insurance Company may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to January 15, 2010, Town Community Bank & Trust ("Bank") was a depository institution organized and existing under the laws of Illinois;

On January 15, 2010, the Bank was closed by the Illinois Department of Financial and Professional Regulation and pursuant to 12 U.S.C. § 1821(c), the FDIC-R was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC as receiver 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 as receiver succeeded were 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 and/or officers of the Bank;

The FDIC-R has asserted claims and has the jurisdiction to assert other claims against the Settling Defendants, who had each served at various times as directors and/or officers of the

Bank. The Settling Defendants have denied liability for any asserted or unasserted claims of the FDIC-R;

Federal Insurance Company issued directors' and officers' liability policy number [redacted] (b)(4)

(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 Settling Defendants have made claims under the Policy. The Insurance Company has reserved its rights to deny coverage under the Policy for claims asserted by FDIC-R against the Settling Defendants;

The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, 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 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 agrees to pay the FDIC-R the sum of \$1,300,000.00 ("the Settlement Funds"), by way of wire transfer to:

BANK: Federal Home Loan Bank of New York

ROUTING No.: [redacted]

FOR CREDIT TO: FDIC National Liquidation Account

ACCOUNT No.: [redacted]

FIN 10170; Town Community Bank & Trust, Antioch, Illinois;
Contact: David C. Joseph; 972-761-8648; Professional Liability
(37100); DIF Fund

B. Payment of the Settlement Funds is due March 15, 2013 (the "Due Date") provided that the FDIC-R provides written evidence of its execution of this Agreement by March 7, 2013. If the FDIC-R does not provide written evidence of its execution of this Agreement by

March 7, 2013, then the Due Date shall be such date that is four business days after the FDIC-R provides written evidence of its execution of this Agreement.

C. In addition, and without waiving any other rights that the FDIC-R may have, in the event that it does not receive all Settlement Funds on or before March 15, 2013 (or such other Due Date four business days after FDIC-R provides written evidence that it has executed this Agreement, as set forth in Paragraph I.B. above), then, with respect to the Party, or Parties, that fail to deliver their share of the Settlement Funds only, the FDIC-R, in its sole discretion, shall have the right at any time prior to receipt of all Settlement Funds to declare this Agreement null and void, shall have the right to extend this Agreement for any period of time until it receives all Settlement Funds, and/or shall have the right to enforce this Agreement against the Party or Parties, failing to deliver their share of the Settlement Funds, in which event the non-delivering Party, or Parties, agree to jurisdiction in Federal District Court for the Northern District of Illinois and agree to pay all of the FDIC-R's reasonable attorney's fees expended in enforcing the terms of this Agreement.

SECTION II: Releases

A. Release of Settling Defendants by FDIC-R.

Effective upon receipt in full of the Settlement Funds and except as provided in Paragraph II.F., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges each of the Settling Defendants and their respective heirs, executors, 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, whether derived from a statute or common law, known or unknown, asserted or unasserted, 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.

B. Release of FDIC-R by the Settling Defendants.

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

C. Release by Settling Defendants of Each Other.

Effective simultaneously with the releases granted in Paragraph II.B. above, the Settling Defendants, 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 and/or directors of the Bank.

D. Release of Insurance Company by FDIC-R.

Effective simultaneously with the releases granted in Paragraphs II.A. and II.B. above, the FDIC-R, for itself and its successors and assigns, hereby releases and discharges Insurance Company, 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. The FDIC-R agrees that any interest it may have under the Policy is extinguished.

E. Release of FDIC-R by Insurance Company.

Effective simultaneously with the release granted in Paragraph II.D. above, 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 FDIC-R, and its 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.

F. Express Reservations From Releases By FDIC-R.

1. Notwithstanding any other provision, by this Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:

a. against the Settling Defendants 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 the Bank;

b. against any person or entity not expressly released in this Agreement;

c. asserted in the Bankruptcy of Anthony Montalbano (*In re Montalbano*, Case No. 09-30477 (N.D. Ill.));

d. asserted in the Bankruptcy of Daniel Regan (*In re Regan*, Case No. 11-47684 (N.D. Ill.)); and

e. which are not expressly released in Paragraphs II.A. or II.D. above.

2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the FDIC in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition or any other administrative enforcement action which may arise by operation of law, rule or regulation. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice, the United States Attorney's Office for the Northern District of Illinois or any other federal judicial district. In addition, 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

To the extent, if any, that Settling Defendants are or were shareholders of the Bank or its holding company, Town BancShares, Inc., and by virtue thereof are or may have been entitled to a dividend, payment, or other prorata distribution upon resolution of the receivership of the Bank, they hereby knowingly assign to FDIC-R any and all rights, titles and interest in and to any and all such dividends, payments or other pro rata distributions.

SECTION IV: Representations and Acknowledgements

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 that this Agreement is not an admission or evidence of liability by any of them regarding any claim.

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. Each 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, successors and assigns.

D. 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 Illinois.

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. This Agreement may not be amended or modified except by another written instrument signed by the party or parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s).

F. Specific Representations Warranties and Disclaimer. The Parties expressly acknowledge that in determining to settle the claims released here, FDIC-R has reasonably and justifiably

relied upon the accuracy of financial information in the affidavits submitted. If, in their affidavits, the Settling Defendants have failed to disclose any material interest, legal, equitable, or beneficial, in any asset, the Settling Defendants agree to cooperate fully with FDIC-R to transfer their interest in the asset to FDIC-R and to sign any and all documents necessary to transfer their interest in the asset to FDIC-R. Moreover, if, in their affidavits the Settling Defendants have failed to disclose any interest, legal, equitable, or beneficial, in any asset, FDIC-R in its sole discretion, may exercise one or more or all of the following remedies: (a) FDIC-R may declare the releases granted to the Settling Defendants as null and void; (b) FDIC-R may retain the Settlement Funds; (c) FDIC-R may sue the Settling Defendants for damages, an injunction, and specific performance for the breach of this agreement; and (d) FDIC-R may seek to vacate any dismissal order and reinstate FDIC-R's claims against the Settling Defendants. The Settling Defendants agree that if, in their affidavits, they have failed to disclose any interest, legal, equitable, or beneficial, in any asset, the Settling Defendants consent to the reinstatement of FDIC-R's claims and waive any statute of limitations that would bar any of FDIC-R's claims against them.

G. Reasonable Cooperation.

1. The undersigned parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement.
2. Further, the Settling Defendants agree to cooperate fully with FDIC-R in connection with any action required under this Agreement. Any such cooperation that involves any out of pocket costs is subject to reasonable reimbursement by FDIC-R pursuant to its internal guidelines and policy for such reimbursement. Such cooperation shall consist of:

a. producing all documents requested by FDIC-R, without the necessity of subpoena, as determined by FDIC-R, in its sole discretion, to be relevant to the Bank;

b. making themselves available upon request by FDIC-R at reasonable times and places for interviews regarding facts, as determined by FDIC-R in its sole discretion, to be relevant to the Bank;

c. appearing to testify, upon request by FDIC-R, in any matter determined by the FDIC-R in its sole discretion, to be related to the Bank, without the necessity of subpoena;

d. signing truthful affidavits upon request by FDIC-R, regarding any matter, as determined by FDIC-R in its sole discretion, to be relevant to the Bank.

H. Advice of Counsel. Each party hereby acknowledges that 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.

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.

Date: 6 March 2013

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER OF
TOWN COMMUNITY BANK & TRUST

By: [Redacted]
Title: [Redacted]
Print Name: David C. Joseph

(b)(6)

(b)(6)

Date: MARCH 7, 2013

FRANK GIRONDA

Print Name

DIRECTOR
FRANK GIRONDA

(b)(6)



(b)(6) _____

Date: March 7, 2013

PAUL MCALLISTER

By: _____

(b)(6)

Title:

Print Name: PAUL MCALLISTER

ANTHONY MONTALBANO

Date: _____

By: _____

Title:

Print Name:

DANIEL REGAN

Date: _____

By: _____

Title:

Print Name:

FEDERAL INSURANCE COMPANY

Date: _____

By: _____

Title:

Print Name:

PAUL MCALLISTER

Date: _____

By: _____
Title: _____
Print Name: _____

Date: 3-13-13

ANTHONY MONTALBANO

By: _____
Title: _____
Print Name: _____

(b)(6)

Date: _____

DANIEL REGAN

By: _____
Title: _____
Print Name: _____

Date: _____

FEDERAL INSURANCE COMPANY

By: _____
Title: _____
Print Name: _____

PAUL MCALLISTER

Date: _____

By: _____

Title:

Print Name:

ANTHONY MONTALBANO

Date: _____

By: _____

Title:

Print Name:

DANIEL REGAN

Date: MARCH 6, 2013

By: _____

Title:

Print Name: DANIELA REGAN

(b)(6)

FEDERAL INSURANCE COMPANY

Date: _____

By: _____

Title:

Print Name:

PAUL MCALLISTER

Date:

By: _____

Title:

Print Name:

ANTHONY MONTALBANO

Date:

By: _____

Title:

Print Name:

DANIEL REGAN

Date:

By: _____

Title:

Print Name:

FEDERAL INSURANCE COMPANY

Date: 3/13/13

By:

(b)(6)

Title: Sr. Claims Officer

Print Name: Nora B. Neary