

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made by, between, and among the following undersigned parties:

The Federal Deposit Insurance Corporation as Receiver for Wheatland Bank (“FDIC-R”), and Norman Beles, Mary Davolt, Leonard Eichas, Beverly Harvey, Frank Maly, Michael Rees, Lewis Mark Spangler, Arthur P. Sundry, Jr., and Michael A. Sykes (collectively, the “Settling Defendants”), and OneBeacon Midwest Insurance Company (“OneBeacon”). Individually, the FDIC-R, the Settling Defendants, and OneBeacon may be referred to herein as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS:

Prior to April 23, 2010, Wheatland Bank (“Bank”) was a depository institution organized and existing under the laws of the State of Illinois.

On April 23, 2010, the Bank was closed by the Illinois Department of Financial and Professional Regulation 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/or employees of the Bank;

On May 5, 2011, the FDIC-R filed a Complaint for money damages against the Settling Defendants, each of whom served at various times as directors and/or officers of the Bank, and the FDIC-R then filed an Amended Complaint on January 12, 2012. Those claims for damages are now pending in the United States District Court for the Northern District of Illinois in *FDIC*

as Receiver for Wheatland Bank v. Spangler, et al., Case No. 1:10-cv-4288 (N.D. Ill.) (the “D&O Action”). The Settling Defendants contend that they performed their duties in accordance with all applicable standards and deny any liability for the FDIC-R’s claims and the Parties agree that this Agreement shall not constitute an admission of liability of any kind.

OneBeacon issued director and officer liability insurance policy numbered [redacted] (b)(4)

(b)(4) [redacted] for the period December 14, 2007 to December 14, 2010 (the “Policy”), under which the directors and officers of the Bank are Insureds according to the terms, provisions and conditions of the Policy. The Settling Defendants asserted claims for coverage under the Policy. OneBeacon has reserved its rights to deny coverage under the Policy for claims asserted by the FDIC-R against the Settling Defendants.

On August 8, 2011, OneBeacon filed, among other claims, a declaratory judgment seeking a declaration of its rights and obligations under the Policy with regard to the D&O Action and to recoup defense costs advanced to the Settling Defendants in the D&O Action. That action is now pending in the United States District Court for the Northern District of Illinois in *OneBeacon Midwest Ins. Co. v. Spangler, et al.*, Case No. 1:13-cv-03859 (N.D. Ill.) (“Coverage Action”). The FDIC-R subsequently was granted permission to intervene in the Coverage Action.

On October 19, 2010, Arthur P. Sundry, Jr. filed a lawsuit against the FDIC-R seeking indemnification for claims asserted against him in his capacity as a director of the Bank. This case is now pending in the United States District Court for the Northern District of Illinois in *Sundry v. FDIC as Receiver for Wheatland Bank*, Case No. 10-cv-6749 (N.D. Ill.) (“Sundry Action”).

OneBeacon issued a financial institution bond to the Bank, bond number [redacted] (b)(4)

(b)(4) [redacted] for the period December 14, 2007 to December 14, 2010 (“Bond”). On June 10, 2011, FDIC-R filed suit to recover for its claim under the Bond. That action is now pending in the United States District Court for the Northern District of Illinois in *FDIC as Receiver for Wheatland Bank v. OneBeacon Midwest Ins. Co.*, 1:11-cv-03972 (N.D. Ill.) (“Bond Action”).

On September 9, 2013, the Parties participated in a mediation before the Honorable Stuart Nudelman (Ret.) during which the Settling Defendants demanded that OneBeacon pay the remaining limit of liability under the Policy to settle the D&O Action.

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 FDIC-R**

A. As an essential covenant and condition to this Agreement, within fourteen days of the full and complete execution of this Agreement (the "Settlement Payment Date"), the Settling Defendants and OneBeacon, collectively, agree to pay the FDIC-R the sum of TWO MILLION EIGHT HUNDRED THIRTY THREE THOUSAND SIX HUNDRED AND NINETY THREE DOLLARS AND SEVENTY-ONE CENTS (\$2,833,693.71) (the "Settlement Payment"). OneBeacon shall pay \$1,833,693.71, which is the remaining amount available under the Policy, and the Settling Defendants, jointly and severally, shall pay \$1,000,000.00.

B. The Settling Defendants shall hand-deliver certified or cashier's checks totaling the sum of \$1,000,000 to the FDIC-R (or its counsel) within seven days after the full and complete execution of this Agreement. Upon receipt of the certified or cashier's checks totaling \$1,000,000 from the Settling Defendants, the FDIC-R shall notify OneBeacon (or its counsel) of the receipt of the \$1,000,000 payment by e-mail. Upon receipt of the e-mail notice by OneBeacon, and in no event more than seven days after receipt of the e-mail notice, OneBeacon shall deliver the sum of \$1,833,693.71 to FDIC-R by direct wire transfer. The direct wire transfer shall be made to the following account:

**BANK:** Federal Home Loan Bank of New York

(b)(4) **ROUTING #:**

**FOR CREDIT TO:** FDIC National Liquidation Account

(b)(4) **ACCOUNT #:**

**OBI:** FIN 10224; Wheatland Bank, Naperville, IL; Contact: Gregory K. Conway 703-516-1279; Professional Liability (37100); DIF Fund

In the event that all of the Settlement Funds are not delivered to the FDIC-R (or its counsel) by the Settlement Payment Date, the Party who failed to make its/their respective payment shall pay interest to the FDIC-R on all unpaid amounts at the rate of 5% per annum accruing from the Settlement Payment Date until the date of payment.

C. If the FDIC-R does not receive the Settlement Payment in full on or before the Settlement Payment Date, 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 Settlement Payment Date, 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 Defendants and Insurer agree to jurisdiction in the United States District Court for the Northern District Court of Illinois and the defaulting party(ies) agree 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, move to vacate any dismissal order, to which the Settling Defendants and Insurer agree to consent, and re-institute an action on the FDIC-R's claims. The Settling Defendants and OneBeacon 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 (including all accrued interest) in full.

### **SECTION II: Stipulation and Dismissal**

Within ten business days after (1) full execution of this Agreement by all of the Parties, and (2) 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 hereto, in the form attached hereto as Exhibit A, in the D&O Action. Within ten days after full execution of this Agreement by each of the Parties and the dismissal of the D&O Action, OneBeacon shall file a stipulation of dismissal with prejudice, executed by the attorneys for all Parties hereto, in the form attached hereto as Exhibit B, in the Coverage Action. Within ten days after full execution of this Agreement by each of the Parties and the dismissal of the D&O Action, Arthur P. Sundry, Jr. shall file a stipulation of dismissal with prejudice, in the form attached hereto as Exhibit C, in the Sundry Action.

### **SECTION III: Releases**

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

Upon receipt of the Settlement Payment in full 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 employees, officers and/or directors of the Bank including without limitation the causes of action alleged in the D&O Action and the Coverage Action. This release shall also include any cause of

action against any Settling Defendant in his or her capacity, if any, as an owner, member, manager, or representative of Mezzanine Finance LLC.

2. OneBeacon, 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 OneBeacon, the FDIC-R agrees that any interest it may have under the Policy is extinguished. This release specifically excludes and does not release or discharge the FDIC-R's claim for breach of contract against OneBeacon in the Bond Action.

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. 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.**

1. 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 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.

2. 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 each other, and their respective 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 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.

3. Effective simultaneously with the releases 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 OneBeacon, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, attorneys, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions and causes of action, direct or indirect, in law or equity, that arise from or relate to the Policy, the D&O Action, the Coverage Action, and/or the Sundry Action. As part of this release, the Settling Defendants agree that any interest they may have under the Policy is extinguished.

C. OneBeacon's Releases.

1. Effective simultaneously with the releases granted in Section III.A. above, OneBeacon, 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, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to the Policy.

2. Effective simultaneously with the releases granted in Section III.A. above,

OneBeacon, 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 Settling Defendants, and their respective heirs, executors, administrators, 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 Bond, or that 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 employees, officers and/or directors of the Bank or in any other capacity including, without limitation, the causes of action alleged or which could have been alleged in the D&O Action, the Coverage Action, the Bond Action or any other legal proceeding.

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

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

c. Against OneBeacon relating to the FDIC-R's claim for breach of contract in the Bond Action.

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.

E. Express Waiver of OneBeacon under the Bond.

1. OneBeacon, for itself and its successors and assigns, and on behalf of its parents, subsidiaries, affiliates and reinsurers, and their successors and assigns and any other related entity, hereby releases and waives its right to bring any claims by way of subrogation to the claims of the FDIC-R against the Settling Defendants, in their capacity as directors, officers, or employees of the Bank or in any other capacity.

2. Nothing herein shall be construed to admit the existence of, or to establish, any claim or cause of action on the part of OneBeacon or any other bond underwriter by way of subrogation to claims of the FDIC-R, that would exist had this Agreement not been executed.

3. OneBeacon affirms that the FDIC-R's entry into the Agreement, including but not limited to, its release of the Settling Defendants pursuant to the Agreement does not constitute interference with or impairment of any right of subrogation under the Bond, does not release or alter in any way the FDIC-R's claim against OneBeacon for breach of contract in the Bond Action and does not constitute a defense to the FDIC-R's breach of contract claim in the Bond Action. OneBeacon also affirms that the FDIC-R's entry into this Agreement does not constitute a violation or breach of any of the terms and conditions of the Bond, including, but not limited to, Section V.(K) of the Bond.

#### **SECTION IV: Waiver of Dividends and Proceeds from Litigation**

To the extent, if any, that Settling Defendants are or were shareholders of the Bank 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 Defendants 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 V: 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.

C. Financial Disclosure Representation. Each Settling Defendant has submitted financial information to the FDIC-R including Personal Financial Statement FDIC 7600/01 (89-05) and herein affirms that his/her financial information was true and accurate on the date those Personal Financial Statements were delivered to the FDIC-R and there have been no material changes to each Settling Defendant's financial information since that date up 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 VI: Reasonable Cooperation**

A. 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, the Coverage Action, the Sundry Action and to otherwise perform the terms of this Agreement.

B. The Settling Defendants agree to cooperate fully with the FDIC-R in connection with any action required under this Agreement. Such cooperation shall consist of:

1. Producing all documents requested by the FDIC-R, without the necessity of subpoena, as determined by the FDIC-R, in its sole discretion, to be relevant to the Bank;
2. Appearing as requested by the FDIC-R at reasonable times and places for interviews regarding facts, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank;
3. Testifying as requested by the FDIC-R, without the necessity of a subpoena, in any matter relevant to the Bank, as determined by the FDIC-R;
4. Signing truthful affidavits, regarding any matter, as determined by the FDIC-R in its sole discretion, to be relevant to the Bank.

**SECTION VII: 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, coverage 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 Illinois.

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: Gregory K. Conway, Federal Deposit Insurance Corporation, Legal Division, 3501 Fairfax Drive, Arlington, VA 22226, 703-516-1279, [redacted] (b)(6)

If to the Settling Defendants: Robert F. Coleman, Esq., Coleman Law Firm, 77 West Wacker Drive, Suite 4800, Chicago, Illinois 60601, E-mail: [redacted] A (b)(6)  
copy shall also be sent to: Mr. Arthur P. Sundry, Jr., 7415 W. Madison Street, Forest Park, Illinois 60130, with a copy to his counsel: Michael A. Kraft, Esq., Kraft Law Office, 4343 Commerce Court, Suite 415, Lisle, Illinois 60532, Email: [redacted] (b)(6)

If to OneBeacon: Daniel J. Ryan, OneBeacon, 601 Carlson Parkway, Suite 600, (b)(6) Minnetonka, MN 55305, Email: [redacted] with a copy to Thomas J. Judge, Loss, Judge & Ward, LLP, 1133 21st Street, N.W., Suite 450, Washington, D.C. 20036, E-mail:

(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). Each Party represents that they have not assigned or transferred any of the claims described in this Agreement.

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 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  
WHEATLAND BANK**

Date: 6/23/2014

BY: \_\_\_\_\_

[Redacted Signature Box]

(b)(6)

TITLE: Counsel

PRINT NAME: Gregory K. Conway

**SETTLING DEFENDANTS**

Date: \_\_\_\_\_

\_\_\_\_\_  
Norman Beles

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

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: Counsel

PRINT NAME: Gregory K. Conway

**SETTLING DEFENDANTS**

(b)(6)

Date: 6-16-14



Norman Beles



(b)(6)



Date: \_\_\_\_\_

Mark Davoli

Date: \_\_\_\_\_

Leonard Riches

Date: \_\_\_\_\_

Beverly Harvey

Date: \_\_\_\_\_

Frank Maly

Date: \_\_\_\_\_

Michael Rees

Date: \_\_\_\_\_

Lewis Mark Stangler

Date: \_\_\_\_\_

Arthur P. Savelle, Jr.

Date: \_\_\_\_\_

Michael A. Sykes

**ONE BEACON MIDWEST INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

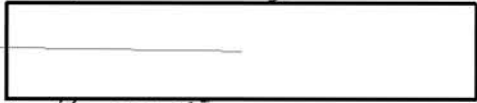
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Mary Davolt

(b)(6)



Date: 6-13-2014

Leonard Eichas

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Frank Maly

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Michael Rees

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Lewis Mark Spangler

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Arthur P. Sundry, Jr.

Date: \_\_\_\_\_

Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

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BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

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Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

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Leonard Eichas

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Beverly Harvey

(b)(6)

Date: 6-24-14



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Frank Maly

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Michael Rees

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Lewis Mark Spangler

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Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

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Date: \_\_\_\_\_

Mary Davolt

Date: \_\_\_\_\_

Leonard Lichas

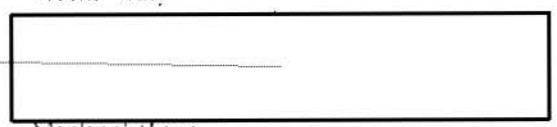
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Beverly Harvey

Date: \_\_\_\_\_

Frank Maly

(b)(6)



Date: \_\_\_\_\_

Michael Rees

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Lewis Mark Spangler

Date: \_\_\_\_\_

Arthur P. Sandry, Jr.

Date: \_\_\_\_\_

Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Date: \_\_\_\_\_

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Mary Davolt

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Leonard Eichas

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Beverly Harvey

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Frank Maly

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Michael Rees

(b)(6)

Date: 12/16/12



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Lewis Mark Spangler

Date: \_\_\_\_\_

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Arthur P. Sundry, Jr.

Date: \_\_\_\_\_

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Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

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Mary Davolt

Date: \_\_\_\_\_

\_\_\_\_\_  
Leonard Eichas

Date: \_\_\_\_\_

\_\_\_\_\_  
Beverly Harvey

Date: \_\_\_\_\_

\_\_\_\_\_  
Frank Maly

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Rees

Date: \_\_\_\_\_

\_\_\_\_\_  
Lewis Mark Spangler

Date: \_\_\_\_\_

\_\_\_\_\_  
Arthur P. Sundry, Jr.

(b)(6)

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael A. Sykes



**ONEBEACON MIDWEST INSURANCE COMPANY**

Date: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

4072-M01  
012147686581

Date: \_\_\_\_\_

\_\_\_\_\_  
Mary Davolt

Date: \_\_\_\_\_

\_\_\_\_\_  
Leonard Eichas

Date: \_\_\_\_\_

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Beverly Harvey

Date: \_\_\_\_\_

\_\_\_\_\_  
Frank Maly

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael Rees

Date: \_\_\_\_\_

\_\_\_\_\_  
Lewis Mark Spangler

Date: \_\_\_\_\_

\_\_\_\_\_  
Arthur P. Sundry, Jr.

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael A. Sykes

**ONEBEACON MIDWEST INSURANCE COMPANY**

(b)(6)

Date: 6/17/2014

BY: \_\_\_\_\_

\_\_\_\_\_

TITLE: AVP - FS Claims

PRINT NAME: DANIEL J. RYAN

40072-0001  
CH2\14768658.1

EXHIBIT A TO SETTLEMENT AGREEMENT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

FEDERAL DEPOSIT INSURANCE	)
CORPORATION AS RECEIVER FOR	)
WHEATLAND BANK,	)
	)
Plaintiff,	)
	)
v.	)
	)
LEWIS MARK SPANGLER, ARTHUR P.	)
SUNDRY, JR., MICHAEL A. SYKES,	)
LEONARD EICHAS, FRANK MALY,	)
DOLORES RITTER, MARY DAVOLT,	)
BEVERLY HARVEY, MICHAEL REES,	)
and NORMAN BELES,	)
	)
Defendants.	)

Case No. 10 cv 4288  
Hon. Robert M. Dow, Jr.

**STIPULATION TO DISMISS WITH PREJUDICE PLAINTIFF’S CLAIMS  
AGAINST LEWIS MARK SPANGLER, ARTHUR P. SUNDRY, JR.,  
MICHAEL A. SYKES, LEONARD EICHAS, FRANK MALY, MARY DAVOLT,  
BEVERLY HARVEY, MICHAEL REES, AND NORMAN BELES**

Plaintiff Federal Deposit Insurance Corporation as Receiver for Wheatland Bank (“FDIC-Receiver”), and Defendants Lewis Mark Spangler, Arthur P. Sundry, Jr., Michael A. Sykes, Leonard Eichas, Frank Maly, Mary Davolt, Beverly Harvey, Michael Rees, and Norman Beles (collectively, “Defendants”), hereby file this stipulation to dismiss with prejudice all of the FDIC-Receiver’s claims against Defendants in this action, each party to bear its own costs.

**EXHIBIT A TO SETTLEMENT AGREEMENT**

Dated: June \_\_, 2014

By: /s/ Robert F. Coleman  
Robert F. Coleman (ARDC # 00485004)  
Coleman Law Firm  
77 West Wacker Drive, Ste. 4800  
Chicago, Illinois 60601  
312-444-1000

*On behalf of Lewis Mark Spangler,  
Norman Belas, and Michael Rees*

By: /s/ Arnold H. Landis  
Arnold H. Landis (ARDC # 1568078)  
Law Offices of Arnold H. Landis  
77 W. Washington Street, Suite 702  
Chicago, Illinois 60602  
312-236-6268

*On behalf of Michael A. Sykes and  
Leonard Eichas*

By: /s/ Kelly McCloskey Cherf  
Kelly McCloskey Cherf (ARDC #  
6220391)  
Patrick E. Deady (ARDC # 0596922)  
J. Michael Tecson (ARDC # 6276036)  
Hogan Marren, Ltd.  
321 N. Clark Street, Suite 1301  
Chicago, Illinois 60654

*On behalf of Mary Davolt*

By: /s/ Frederick R. Roth  
Frederick R. Roth  
47 E. Chicago Avenue, Suite 360  
Naperville, Illinois 60540  
630-778-1121

*On behalf of Beverly Harvey*

Respectfully submitted,

/s/ Antony S. Burt  
Ronald S. Safer  
Antony S. Burt  
Lawrence H. Heftman  
SCHIFF HARDIN LLP  
233 S. Wacker Dr., Suite 6600  
Chicago, IL 60606  
(312) 258-5500  
(312) 258-5600 (fax)

Gregory K. Conway  
Counsel, Professional Liability Unit  
Federal Deposit Insurance Corporation  
3501 Fairfax Drive, Room B-7046  
Arlington, VA 22226

(703) 516-1279  
(703) 516-5067 (fax)

*Attorneys for Plaintiff Federal Deposit Insurance  
Corporation, as Receiver for Wheatland Bank*

By: /s/ Theodore T. Poulos  
Theodore T. Poulos (ARDC # 6195680)  
Cotsirilos, Tighe & Streicker,  
Poulos, & Campbell, Ltd.  
33 N. Dearborn Street, Suite 600  
Chicago, Illinois 60707

*On behalf of Frank Maly*

By: /s/ Michael Kraft  
Michael Kraft (ARDC # 6197378)  
Kraft Law Offices  
4343 Commerce Court, Suite 415  
Lisle, Illinois 60532-0924  
630-505-4119

*On behalf of Arthur P. Sundry, Jr.*

**EXHIBIT A TO SETTLEMENT AGREEMENT**

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on June \_\_, 2014, he caused the foregoing document to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ Lawrence H. Heftman



EXHIBIT B TO SETTLEMENT AGREEMENT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ONEBEACON MIDWEST INSURANCE )  
COMPANY, )  
 ) Case No. 1:13-cv-03859  
Plaintiff and Counter-Defendant, )  
 )  
v. )  
 )  
LEWIS MARK SPANGLER; ARTHUR P. )  
SUNDRY, JR.; MICHAEL A. SYKES; )  
LEONARD EICHAS; FRANK MALY; )  
DOLORES RITTER; MARY DAVOLT; )  
BEVERLY HARVEY; MICHAEL REES; )  
and NORMAN BELES. )  
 )  
Defendants, )  
 )  
-and- )  
 )  
THE FEDERAL DEPOSIT )  
INSURANCE CORPORATION as )  
Receiver for Wheatland Bank. )  
 )  
Intervenor, Additional Defendant, )  
and Counter-Plaintiff. )  
 )  
\_\_\_\_\_ )

**STIPULATION TO DISMISS WITH PREJUDICE ALL CLAIMS**

Plaintiff OneBeacon Midwest Insurance Company (“OneBeacon”), Defendants Lewis Mark Spangler, Arthur P. Sundry, Jr., Michael A. Sykes, Leonard Eichas, Frank Maly, Mary Davolt, Beverly Harvey, Michael Rees, and Norman Beles (collectively, “Defendants”), Intervenor-Defendant/Counter-Plaintiff Federal Deposit Insurance Corporation as Receiver for Wheatland Bank (“FDIC-Receiver”) hereby file this stipulation to dismiss with prejudice all claims in this action, each party to bear its own costs.

**EXHIBIT B TO SETTLEMENT AGREEMENT**

Dated: June \_\_, 2014

Respectfully submitted,

By: /s/ Robert F. Coleman  
Robert F. Coleman (ARDC # 00485004)  
Coleman Law Firm  
77 West Wacker Drive, Ste. 4800  
Chicago, Illinois 60601  
312-444-1000

/s/ Antony S. Burt  
Antony S. Burt, IL Bar# 6183449  
David C. Giles, IL Bar# 6274993  
SCHIFF HARDIN LLP  
233 South Wacker Dr., Suite 6600  
Chicago, Illinois 60606  
(312) 258-5500  
(312) 258-5700 (faecsimile)

*On behalf of Lewis Mark Spangler,  
Norman Beles, and Michael Rees*

(b)(6)

(b)(6)

By: /s/ Arnold H. Landis  
Arnold H. Landis (ARDC # 1568078)  
Law Offices of Arnold H. Landis  
77 W. Washington Street, Suite 702  
Chicago, Illinois 60602  
312-236-6268

*Counsel for the Federal Deposit  
Insurance Corporation as Receiver  
for Wheatland Bank*

*On behalf of Michael A. Sykes and  
Leonard Fichas*

By: /s/ Michael Kraft  
Michael Kraft (ARDC # 6197378)  
Kraft Law Offices  
4343 Commerce Court, Suite 415  
Lisle, Illinois 60532-0924  
630-505-4119

By: /s/ Kelly McCloskey Cherf  
Kelly McCloskey Cherf (ARDC #  
6220391)  
Patrick E. Deady (ARDC # 0596922)  
J. Michael Teeson (ARDC # 6276036)  
Hogan Marren, Ltd.  
321 N. Clark Street, Suite 1301  
Chicago, Illinois 60654

*On behalf of Arthur P. Sundry, Jr.*

*On behalf of Mary Davolt*

By: /s/ Theodore T. Poulos  
Theodore T. Poulos (ARDC # 6195680)  
Cotsirilos, Tighe & Streicker,  
Poulos, & Campbell, Ltd.  
33 N. Dearborn Street, Suite 600  
Chicago, Illinois 60707

By: /s/ Frederick R. Roth  
Frederick R. Roth  
47 E. Chicago Avenue, Suite 360  
Naperville, Illinois 60540  
630-778-1121

*On behalf of Frank Maly*

*On behalf of Beverly Harvey*

**EXHIBIT B TO SETTLEMENT AGREEMENT**

By: /s/ Kimberly E. Blair  
Michael P. Tone  
Kimberly E. Blair  
WILSON ELSER MOSKOWITZ  
EDELMAN & DICKER LLP  
55 West Monroe Street, Suite 3800  
Chicago, IL 60603-5001  
Telephone: (312) 704-0550  
Facsimile: (312) 704-1522

By: /s/ Thomas J. Judge  
Thomas J. Judge  
Charles W. Chotvacs (of counsel)  
LOSS, JUDGE & WARD, LLP  
Two Lafayette Centre  
1133 21st Street, N.W., Suite 450  
Washington, D.C. 20036  
Telephone: (202) 778-4060  
Facsimile: (202) 778-4099

*Counsel for Plaintiff and Counter-  
Defendant  
OneBeacon Midwest Insurance Company*

**EXHIBIT B TO SETTLEMENT AGREEMENT**

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on June \_\_, 2014, he caused the foregoing document to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ Lawrence H. Hefman

EXHIBIT C TO SETTLEMENT AGREEMENT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ARTHUR P. SUNDRY, JR.,	)	
	)	
Plaintiff,	)	
	)	Case No. 10 CV 6749
v.	)	
	)	Hon. John J. Tharp, Jr.
FEDERAL DEPOSIT INSURANCE	)	
CORPORATION AS RECEIVER FOR	)	
WHEATLAND BANK,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

**STIPULATION TO DISMISS WITH PREJUDICE PLAINTIFF'S  
CLAIMS AGAINST FEDERAL DEPOSIT INSURANCE CORPORATION  
AS RECEIVER FOR WHEATLAND BANK**

Plaintiff Arthur P. Sundry, Jr. and Defendant Federal Deposit Insurance Corporation as Receiver for Wheatland Bank hereby file this stipulation to dismiss with prejudice all claims in this action, each party to bear its own costs.

Dated: June 11, 2014

Respectfully submitted,

By: /s/ Michael Kraft  
Michael Kraft (ARDC # 6197378)  
Kraft Law Offices  
4343 Commerce Court, Suite 415  
Lisle, Illinois 60532-0924  
630-505-4119

/s/ Antony S. Burt  
Antony S. Burt  
Lawrence H. Heftman  
SCHIFF HARDIN LLP  
233 South Wacker Dr., Suite 6600  
Chicago, Illinois 60606  
(312) 258-5500  
(312) 258-5700 (facsimile)

*On behalf of Arthur P. Sundry, Jr.*

(b)(6) \_\_\_\_\_  
(b)(6) \_\_\_\_\_

*Counsel for the Federal Deposit  
Insurance Corporation as Receiver  
for Wheatland Bank*

**EXHIBIT C TO SETTLEMENT AGREEMENT**

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on June \_\_, 2014, he caused the foregoing document to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ Lawrence H. Heftman