

**RELEASE AND COVENANT NOT TO SUE, WAIVER OF SUBROGATION AND
SETTLEMENT AGREEMENT**

This Release and Covenant Not to Sue, Waiver of Subrogation and Settlement Agreement ("Agreement") is made this 21st day of October, 2011, by and between the Federal Deposit Insurance Corporation, in its capacity as receiver for AmTrust Bank ("FDIC-R"), and Federal Insurance Company ("Federal").

RECITALS

0910010807

(b)(4) WHEREAS, AmTrust Bank is first named insured under a Financial Institution Bond No. [redacted] (hereinafter "the Bond") issued to it by Federal and as such is authorized to act for and bind all other insureds thereunder, and

(b)(4) WHEREAS, prior to December 2009, AmTrust Bank ("AmTrust" or the "Bank") notified Federal and thereafter filed a claim with Federal that was assigned claim number [redacted] in which AmTrust alleged that its closing attorney Dean Reskakis ("Reskakis") and its mortgage broker The Mortgage Zone Inc., and other individuals and entities, allegedly were involved in improper transactions relating to the origination and closing of AmTrust mortgage loans and the disbursement by AmTrust of approximately \$7.9 million in mortgage loan closing funds, which transactions were alleged, among other things, to be improper "flipping" and "straw buyer" transactions, and included claims that Reskakis committed, among other things, alone and/or in collusion with others, acts of fraud, dishonesty, malfeasance, negligence, breach of contract, malpractice, and employee theft, and received improper personal financial gain in connection with his role as an attorney for AmTrust and an attorney in possession of AmTrust's funds (hereinafter "the Claim"). The mortgage loan transactions involved in the Claim are also the subject of civil litigation that AmTrust initiated against

Reskakis and others, which is currently pending in the United States District Court for the Eastern District of New York in the case captioned Federal Deposit Insurance Corporation as Receiver v. Mortgage Zone, et al., Case No. 08-cv-3369 (the "Mortgage Zone Litigation").

WHEREAS, on October 13, 2009, Reskakis was indicted in the United States District Court for the Southern District of New York in case number 09-CRIM-975 for Conspiracy to Commit Wire and Bank Fraud and Bank Fraud in connection with his involvement as the closing attorney for certain residential mortgage loans, including his actions as AmTrust's closing attorney for three of the mortgage loans involved in the Claim. On March 15, 2011, Reskakis pled guilty to one count of Conspiracy to Commit Wire and Bank Fraud in a superseding bill of information in that case.

WHEREAS, on December 4, 2009, AmTrust was closed by the Office of Thrift Supervision 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 AmTrust, including those with respect to its assets. Among the assets to which the FDIC-R succeeded were any and all of the Bank's claims, demands, and causes of action, including the claims which AmTrust asserted against Federal under the Bond and those involving or relating to Reskakis, as well as the Claim as defined above and the Released Claims as defined below.

WHEREAS, without any admission of fault or liability by Federal, the parties deem it to be in their respective best interests to resolve the Claim and enter into this Agreement.

NOW, THEREFORE, in consideration of the promises, undertakings, covenants and releases stated herein, and the Recitals set forth above which are made a part of this Agreement,

the sufficiency of which consideration is hereby acknowledged, the undersigned parties agree, each with the other, as follows:

Section 1. Payment to the FDIC-R.

A. As an essential covenant and condition to this Agreement, Federal has agreed to pay the FDIC-R the sum of \$5,145,742.24 (the "Settlement Funds") by check payable to the FDIC-R within 15 days of the parties' execution and delivery to Federal of this Agreement and delivered to the FDIC-R's counsel in this action, who shall promptly acknowledge receipt of same and deliver same to the FDIC-R. In the event that the Settlement Funds are not delivered to counsel to the FDIC-R within 30 days of the execution and delivery of this Agreement, interest shall accrue on all unpaid amounts at the rate of 6% per annum until the date of payment.

B. Without waiving any other rights that the FDIC-R may have, in the event that the Settlement Funds are not received by counsel to the FDIC-R within 30 days of the execution and delivery of this Agreement, then after written notice to Federal of same, the FDIC-R, in its sole discretion, shall have the right at any time prior to its counsel's receipt of all of the Settlement Funds (including all accrued interest) to declare this Agreement null and void, shall have the right to extend this Agreement for any period of time until it receives all of the Settlement Funds (including all accrued interest), and/or shall have the right to enforce this Agreement against Federal, in which event Federal agrees to the non-exclusive jurisdiction of the United States District Court for the Northern District of Ohio and agrees to pay all of the FDIC-R's reasonable legal fees expended in enforcing the terms of this Agreement. Any decision by the FDIC-R to extend the terms of this Agreement or to accept some of the Settlement Funds shall not prejudice its rights to declare this Agreement null and void at any time prior to receipt of all of the Settlement Funds (including all accrued interest) or to enforce the terms of this Settlement

Agreement; provided however, that delivery to FDIC-R's counsel of some of the Settlement Funds shall reduce Federal's obligation to the FDIC-R under the Bond or under this Agreement solely in the amount of such received funds.

Section 2. Mutual Releases and Covenants Not to Sue by the FDIC-R and Waiver of Subrogation by Federal

A. **RELEASE AND COVENANT NOT TO SUE BY THE FDIC-R.** Effective upon counsel to the FDIC-R's receipt of the Settlement Funds and clearance of same in good funds, the FDIC-R and all of its subsidiaries, affiliates, predecessors in interest, officers, directors, shareholders, owners, principals, agencies, heirs, estates, insurers other than Federal, assigns and successors ("AmTrust Releasers") hereby fully and irrevocably release, and forever discharge Federal, and its parents, subsidiaries, affiliates and affiliated insurers of the Chubb Group of Insurance Companies, predecessors in interest, successors and assigns, and their officers, directors, shareholders, employees, agents, attorneys and other representatives (the "Federal Releasees"), of and from any and all actions, causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, executions, claims and demands whatsoever, in law, admiralty, or equity, whether known or unknown, including attorneys fees', disbursements, and claims for sanctions, fixed or contingent, asserted or unasserted, which the AmTrust Releasers ever had or now have or hereafter can, shall or may have, for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to and including the date hereof with respect to the Claim, and any other alleged acts or omissions of Reskakis, or arising out of Reskakis' misconduct, including without limitation, all claims under the Bond relating to Reskakis, or any predecessor or successor bond or policy of insurance issued by any insurer affiliated with the Chubb Group of Insurance Companies with

respect to the Claim and any claim for attorneys fees, consequential, punitive, exemplary or any other extra contractual claims or damages of any kind and any statutory, regulatory or administrative remedy or recourse available now or hereafter to the FDIC-R involving the Claim ("Released Claims"). The FDIC-R further covenants not to sue the Federal Releasees relating to or arising from the Claim or the Released Claims.

B. Release of the FDIC-R by Federal.

Effective simultaneously with the release in Section 2A, Federal, on its own behalf, and on behalf of its related companies, predecessor and successor entities, subsidiaries, affiliates, directors, officers, employees, shareholders, owners, partners, agents, insurers, representatives, agents, attorneys, successors and assigns, hereby knowingly and voluntarily waives, discharges and releases forever the FDIC-R from any and all actions, causes of action, suits, debts, dues, sum of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever in law or equity, including attorneys fees', disbursements, and claims for sanctions, which against the FDIC-R, Federal ever had, now has or hereinafter can, shall or may have, for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date hereof, limited to any and all claims solely related to the allegations and claims made by the FDIC-R in the Claim and arising out of the specific facts and specific circumstances alleged in the Claim and/or the Mortgage Zone Litigation. Federal further covenants not to sue the FDIC-R relating to or arising from the Claim.

C. WAIVER OF SUBROGATION BY FEDERAL. Federal agrees to and hereby does irrevocably waive any rights of subrogation it may have relating to the Claim, including without limitation those arising from Federal's payment of the Settlement Funds, or involving

the underlying properties, assets or claims involved in the Claim and all rights to recovery thereof ("Rights of Recovery"). Federal agrees that the FDIC-R may retain, sell, transfer, or otherwise dispose of such Rights of Recovery as it sees fit, in its sole discretion, and retain the proceeds (if any) thereof and any such present or future retention or disposition of such Rights of Recovery shall not serve to modify, alter, increase, decrease, or otherwise affect the consideration due under this Agreement or the monetary amount being paid by Federal.

Section 3 Express Reservation of Claims By The FDIC-R

Notwithstanding any provision of this Agreement, other than the Section 2A Release And Covenant Not To Sue in favor of the Federal Releasees by the FDIC-R, the FDIC-R does not release, and expressly preserves and reserves fully, any rights, claims or causes of action against any party which are not expressly released in this Agreement. Nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing, or compromising the jurisdiction of the Federal Deposit Insurance Corporation 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. 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 and/or the United States Attorney's Office for any federal judicial district. In addition, the FDIC 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. This Agreement shall not release or affect any rights or obligations of the parties concerning any other claims which the FDIC-R presently has or may have in the future under the Bond that do not arise from or relate to Reskakis or the Claim, including the FDIC-R's claim relating to the

actions of Malik & Associates, P.C., James Carroll, and certain other closing attorneys in the New York Metropolitan Area, which Federal has assigned Claim Number (b)(4)

Section 4 Representations and Acknowledgments

A. No Admission of Liability.

The undersigned parties each acknowledge and agree that the matters set forth in this Agreement constitute a settlement and compromise of disputed claims and that this Agreement is not an admission or evidence of coverage under the Bond or of any liability by any of them regarding any claim, nor shall this Agreement or the settlement it represents be used, cited or argued to constitute an admission of coverage under the Bond or a precedent, estoppel or course of dealing in any other claims or matter now existing or hereafter arising between the parties.

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 a party, 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 insurers, representatives, agents, heirs, executors, administrators, attorneys, 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 applicable internal laws of the States of Ohio or New York.

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 parties to be bound thereby.

F. 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, her, or its counsel.

G. Interpretation of Agreement. The FDIC-R and Federal agree that the terms of this Agreement are the product of informed negotiations, and that no presumption shall arise in the interpretation of the Agreement based upon the identity of the party that drafted any provision hereof. Accordingly, the normal rule of construction/contract interpretation to the effect that any ambiguities are to be resolved against the drafting party will not be employed in any interpretation of this Agreement.

H. Authority to Settle. The FDIC-R, for itself and expressly in its capacity of having succeeded to all of AmTrust Bank's claims against Federal under the Bond relating to the Claim, the Released Claims and Reskakis, and Federal, respectively, each warrant and represent that they are the persons or entities which have collectively all of the interest in any of the matters set forth herein, that the Recitals set forth above are material, true and accurate, and that

they have the full right, power, and specific authority to enter into, execute and consummate this Agreement.

I. Severability. If any provision of this Agreement or the application of any provision herein to any person or circumstance is held invalid or unenforceable, only that provision shall be affected, and the remainder of this Agreement (and the application of such provision to other persons or circumstances) shall remain in full force and effect.

J. No Assignment. The FDIC-R, for itself, for AmTrust, and for all of their directors, officers, employees, shareholders, affiliates, agents, representatives, attorneys, heirs, executors, administrators, predecessors, successors and assigns, represents and warrants that it is the sole owner of the Claim and of the Released Claims herein and that it has not assigned or otherwise sold, transferred, pledged or hypothecated the Claim or the Released Claims, or any portion thereof, to any third party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by each of them, or their duly authorized representative, on the dates hereinafter subscribed.

Federal Deposit Insurance Corporation as Receiver for AmTrust Bank

Date: 10/20/11

By

[Redacted Signature]

(b)(6)

Name: Patrick M. Mc Girk
Title: Counsel

SWORN TO BEFORE ME and subscribed in my presence this 20 day of October, 2011.

(b)(6)

[Redacted Signature]

RASHIDA K. GOFNEY
NOTARY PUBLIC
REGISTRATION # 7164287
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES FEBRUARY 28, 2012

Notary Public

Chubb & Son, as Manager of Federal Insurance Company

Date: OCT 21 2011

By

[Redacted Signature]

(b)(6)

Name: Sandra M. Stone
Title: Senior Claims Officer

SWORN TO BEFORE ME and subscribed in my presence this 21 day of OCT, 2011.

(b)(6)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Angela Lorenzi, Notary Public
Bethel Park Boro, Allegheny County
My Commission Expires March 31, 2015
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

[Redacted Signature]

Notary Public