

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this ¹¹10 day of December, _____ 2013, by, between, and among the following undersigned parties:

The Plaintiff Federal Deposit Insurance Corporation, as receiver of AmTrust Bank ("FDIC-R"), and Defendant Summit Escrow & Title Insurance Agency, LLC ("Defendant") (individually, the FDIC-R and the Defendant may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to December 4, 2009, AmTrust Bank ("Bank") was a depository institution organized and existing under the laws of the United States.

On December 4, 2009, the Bank was closed by the Office of Thrift Supervision ("OTS") 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.

On December 3, 2012, the FDIC-R filed a complaint for money damages against the Defendant. Those claims for damages are now pending in the United States District Court for the District of Utah in *Federal Deposit Insurance Corporation as Receiver for AmTrust Bank v. Summit Escrow & Title Insurance Agency, LLC*, Case No. 12-cv-01100-EJF (the "Action"), alleging that the Defendant caused damages to the FDIC-R.

A dispute has arisen between the Parties with respect to the claims by the FDIC-R related to the Defendant's actions as alleged in the Action (hereinafter any and all claims by the FDIC-R against the Defendant related to the allegations made in the Action are referred to as "Claims"). The Defendant denies the Claims made in the Action against the Defendant. The Parties engaged in settlement negotiations as a result of the Claims. The Parties now 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 undersigned parties agree, each with the other, as follows:

SECTION I: Payment to FDIC-R

A. Defendant has paid the FDIC-R the total sum of Five Thousand Dollars (\$5,000) ("the Settlement Funds") to Parsons Behle & Latimer's Trust Account, receipt and adequacy of which is hereby acknowledged.

SECTION II: Stipulation and Dismissal

Upon execution of this Agreement by each of the undersigned Parties and receipt of the Settlement Funds the FDIC-R shall dismiss the Action. The undersigned Parties agree to enter stipulation(s) providing that the dismissal(s) set forth above shall be with prejudice, with each party to bear its own costs and attorneys' fees as these were originally incurred.

SECTION III: Releases

Each Party acknowledges that this Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which that Party may have against another Party arising from the Claims.

A. Release of Individual Defendant by FDIC-R.

Effective upon receipt in full of the settlement funds and dismissal described in SECTION(S) I and II above, and except as provided in PARAGRAPH(S) III.C., the FDIC-R, for itself and its successors and assigns, hereby releases and discharges each of the Defendant and their respective heirs, executors, administrators, representatives, officers, members, employees, 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 Defendant's functions, duties and actions including without limitation the causes of action alleged in the Action.

B. Release of FDIC-R by the Defendant.

Effective simultaneously with the release granted in PARAGRAPH III.A. above, the Defendant, on behalf of itself, and its 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 Defendant's functions, duties and actions that arise from or relate to the Action.

C. 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 Defendant 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, , including without limitation any claims acquired by Federal Deposit Insurance Corporation as successor in interest to the Bank or any person or entity other than Bank;

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

c. which are not expressly released in Paragraphs III.A. 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 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, if any, which may arise by operation of law, rule or regulation.

3. 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, if any, through either the Department of Justice, the United States Attorney's Office for the District of Utah or any other federal judicial district. In addition, the 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 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:

David R. Hall
Parsons Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
(801) 532-1234

(b)(6)

If to Summit Escrow:

Stuart H. Schultz
Strong & Hanni
3 Triad Center, Suite 500
Salt Lake City, UT 84180
(801) 532-7080

(b)(6)

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 Utah.

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. 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:

STRONG & HANNI

APPROVED AS TO FORM

By: (b)(6)

Stuart H. Schultz, Esq.
Attorney for Defendant SUMMIT ESCROW
& TITLE INSURANCE AGENCY, LLC

DATE:

SUMMIT ESCROW & TITLE INSURANCE
AGENCY, LLC, a Utah limited liability
company

By: (b)(6)

Signature
John F. Harker, owner
Print Name and Title

DATE:

PARSONS BEHLE & LATIMER

APPROVED AS TO FORM

By: (b)(6)

David R. Hall, Esq.
Attorney for Plaintiff FEDERAL DEPOSIT
INSURANCE CORPORATION as Receiver
for AMTRUST BANK

DATE:

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for AMTRUST
BANK

By: (b)(6)

Signature
Patrick M. McGuirk, Counsel
Print Name and Title