

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 26th day of April, 2011, by, between, and among the following undersigned parties: A. Gilbert

The Plaintiff Federal Deposit Insurance Corporation, as Receiver for MagnetBank, Inc. ("FDIC"), and Lyons Valuation Group and David M. Lyons (collectively the "Settling Defendants"), and Liberty Insurance Underwriters, Inc. ("Liberty"), (individually, the FDIC, the Settling Defendants and Liberty may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to January 30, 2009, MagnetBank, Inc. ("Bank") was a depository institution organized and existing under the laws of the state of Utah;

On January 30, 2009, the Bank was closed by the Utah Department of Financial Institutions and pursuant to 12 U.S.C. § 1821(c), the FDIC 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 as Receiver succeeded were any and all of the Bank's claims, demands, and causes of actions arising from or relating to the lawsuit filed by the Bank on September 28, 2007, and now pending in the U.S. District Court for the Central District of Utah, captioned as *FDIC as receiver for MagnetBank, Inc. v. Michael Lichtie, et al.*, Civil No. 2:09-cv-00470 (the "Lawsuit");

Liberty issued an errors and omissions policy to the Settling Defendants, Policy No. (b)(4) (the "Policy"), which insured the Settling Defendants according to the terms, provisions and conditions of the Policy;

In the Lawsuit, the Bank asserted claims against the Settling Defendants related to or arising out of appraisals of real property consisting of approximately 73 acres located in Florence, Pinal County, Arizona (the "Property"). David M. Lyons in connection with his employment for Lyons Valuation Group, LLC, prepared two "as is" and an "as developed" value appraisal reports of the Property for the Bank dated March 27, 2006 and March 2, 2007 (hereafter the "Appraisals"). The claims asserted against the Settling Defendants arise out of or are related to the Appraisals;

The Settling Defendants strenuously contest and dispute any liability for any damages and claims asserted in the Lawsuit; and,

Following mediation before the Honorable William B. Bohling, the undersigned parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of further litigation. As a result, the Parties wish to enter into an Agreement for the compromise and settlement of the rights and liabilities as between them arising out of or related to the Lawsuit, the Property and the Appraisals.

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

A. As an essential covenant and condition to this Agreement, the Settling Defendants agree to pay the FDIC the sum of One Thousand Two Hundred and Fifty Dollars (\$1,250.00) and Liberty, as the insurer of the Settling Defendants, agrees to pay the FDIC the sum of One Hundred and Ninety Eight Thousand and Seven Hundred and Fifty Dollars (\$198,750.00) for a total of Two Hundred Thousand Dollars (\$200,000.00) ("the Settlement Funds") upon full execution of this Agreement.

B. Within thirty (30) days of the execution of this Agreement an original, or originals in counterpart and the execution of a W-9 signed by the FDIC's authorized representative, payment of the Settlement Funds shall be made to the FDIC by check from Liberty and by certified check from the Settling Defendants in full and final settlement of all claims and/or potential claims against the Settling Defendants that have been or may be held by or assigned to the FDIC which relate to or arise out of the Lawsuit, the Appraisals and the Property. Upon receipt and successful negotiation of the total \$200,000.00 Settlement Funds the FDIC will take all necessary steps to dismiss the Settling Defendants with prejudice from the Lawsuit. The Parties agree to assist each other to insure the Settling Defendants obtain a dismissal, with prejudice, from the Lawsuit.

In the event that the Settlement Funds are not delivered to the FDIC (or its counsel) within the required time period noted above, interest shall accrue on all unpaid amounts at the rate of 5% per annum starting on the date due, 30 days after the execution of this Agreement and the W-9 form, and shall continue to accrue until paid.

C. In addition, and without waiving any other rights that the FDIC may have, in the event that all Settlement Funds (including all accrued interest) are not received by the FDIC on or before the date due, 30 days following the execution of this Agreement and the execution of the W-9 form, then, the FDIC, in its sole discretion, shall have the right at any time prior to receipt of all 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 Settlement Funds (including all accrued interest), and/or shall have the right to enforce this Agreement against the Party or Parties failing to deliver the Settlement Funds, in which event the non-delivering Party, or Parties, agree to jurisdiction in Federal District Court in the State of Utah and agree to pay all of the FDIC's reasonable attorney's fees expended in enforcing the

terms of this Agreement. Any decision by the FDIC to extend the terms of this Agreement or to accept a portion of the Settlement Funds shall not prejudice its rights to declare this Agreement null and void with respect to the non-delivering Party, or Parties, at any time prior to receipt of all Settlement Funds (including all accrued interest), or to enforce the terms of this Settlement Agreement; provided however, that in the event the FDIC declares this Agreement null and void, the FDIC will return all amounts paid to it under this Agreement by the non-delivering Party, or Parties. In no event shall the FDIC declare this Agreement null and void with respect to any Party that has delivered its share of the Settlement Fund (including any accrued interest) on or before the date due, 30 days following the execution of this Agreement and the W-9 form.

SECTION II: Stipulation and Dismissal

Upon execution of this Agreement by each of the undersigned Parties, and receipt of the Settlement Funds, plus any accrued interest, the FDIC shall dismiss the action as against the Settling Defendants only. 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 as these were originally incurred.

SECTION III: Releases

A. Release of Individual Settling Defendants by FDIC.

Effective upon receipt in full of the settlement funds plus any accrued interest and dismissal as described in SECTION(S) I and II above, and except as provided in PARAGRAPH III.C. and III.D. below, the FDIC, for itself and its successors and assigns, hereby releases and discharges each of the Settling Defendants and their respective employees, employers, members, officers, directors, legal representatives, agents, successors, insurance carriers, 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, that arise from or relate to, the Lawsuit, the Property and/or the Appraisals.

B. Release of FDIC by the Settling Defendants.

Effective simultaneously with the release granted in PARAGRAPH III.A. above, the Settling Defendants, on behalf of themselves individually, and their respective employees, employers, members, officers, directors, legal representatives, agents, successors, heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge FDIC, 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 Lawsuit, the Property and/or the Appraisals.

C. Express Reservations From Releases By FDIC.

1. Notwithstanding any other provision, by this Agreement the FDIC 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 any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note payable or owed by them to Federal Deposit Insurance Corporation, the Bank, other financial institutions, or any other person or entity, including without limitation any claims incurred as the maker, endorser or guarantor of any promissory note acquired by FDIC 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 I.B and 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 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 criminal claims or charges or petitions for relief which could be brought by the United States through either the Department of Justice or the United States Attorney's Office or which could be ordered by a federal court of competent jurisdiction in a criminal action or proceeding.

D. Express Reservation of Rights of Bond Carrier.

1. Notwithstanding any other provision, nothing in this Agreement shall release or prejudice the rights of Travelers St. Paul Mercury Insurance Company or any other underwriter of any financial institution bond, fidelity bond, or banker's blanket bond on which the Bank is an insured, to bring any claims by way of subrogation to the claims of the FDIC, against any directors, officers, or employees of the Bank. The Parties acknowledge and agree that the Settling Defendants are not directors, officers, or employees of the Bank.

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

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. Reasonable Cooperation.

1. 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 dismiss the Action and to otherwise perform the terms of this Agreement.

2. Further, the Individual Defendants agree to cooperate fully with the FDIC in connection with any action required under this Agreement.

G. 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

Date: _____

BY:

TITLE:

PRINT NAME:

Date: 4/25/11

LYONS VALUATION GROUP, LLC

(b)(6)

BY:

TITLE: Member Manager

PRINT NAME: David M. Lyons

Date: 4/25/11

DAVID M. LYONS

(b)(6)

LIBERTY INSURANCE UNDERWRITERS, INC.

Date: 4/26/11

BY: LINDSAY McMEMAMIN

TITLE: National Claims Counsel
for Liberty Ins. Underwriters, Inc.

PRINT NAME:

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.

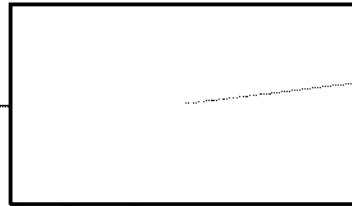
FEDERAL DEPOSIT INSURANCE CORPORATION

Date: _____

BY:
TITLE:
PRINT NAME:

Date: *4/25/11*

LYONS VALUATION GROUP, LLC



(b)(6)

BY:
TITLE: *Member Manager*
PRINT NAME: *David M. Lyons*

Date: *4/25/11*

DAVID M. LYONS



(b)(6)

LIBERTY INSURANCE UNDERWRITERS, INC.

Date: _____

BY:
TITLE:
PRINT NAME:

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

(b)(6)



Date: 4/26/2011

BY:

TITLE: FDIC Counsel

PRINT NAME: ANDREW GILBERT

Date: _____

LYONS VALUATION GROUP, LLC

BY:

TITLE:

PRINT NAME:

Date: _____

DAVID M. LYONS

LIBERTY INSURANCE UNDERWRITERS, INC.

Date: _____

BY:

TITLE:

PRINT NAME: