

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 30th day of August, 2013, by, between, and among the following undersigned parties:

The Plaintiff Federal Deposit Insurance Corporation, as receiver of Evergreen Bank, Seattle, Washington ("FDIC-R"), Richard Baldwin, Dan Curtis, Gerald Hatler, Stanley McNaughton, Cliff Sullam, and Michael Tibbits (collectively the "Settling Defendants"), and Federal Insurance Company ("Chubb") (individually, the FDIC-R, the Settling Defendants and Chubb may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to January 22, 2010, Evergreen Bank ("Bank") was a depository institution organized and existing under the laws of the State of Washington;

On January 22, 2010, the Bank was closed by the Washington Department of Financial Institutions 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-R 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 against certain persons, including 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 the FDIC-R's claims.

Chubb issued directors' and officers' liability policy number (the "Policy"), (b)(4) 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. Chubb

has reserved its rights under the Policy for the claims of the Settling Defendants.

The undersigned 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 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, Chubb agrees to pay the FDIC-R the sum of \$5 million ("the Settlement Funds").

B. Within ten business days after the full execution of an original, or originals in counterpart, of this Agreement by each of the undersigned Parties to this Agreement, and upon receipt of a W-9 which is required before any funding may occur, the Settlement Funds shall be delivered by check to the FDIC-R by check made out to "FDIC-R Evergreen Bank (10172)" and delivered to JPMorgan Chase (), Attn: FDIC Receivership Lock Box # , 14800 Frye Road, 2nd Floor, Ft. Worth, Texas 76155. (b)(4)

C. In addition, and without waiving any other rights that the FDIC-R may have, in the event that all Settlement Funds are not received by the FDIC-R as set forth above in paragraph I.B., 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 Chubb for failing to deliver the Settlement Funds, in which event Chubb and the Settling Defendants agree to jurisdiction in Federal District Court in the State of Washington. Any decision by the FDIC-R 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 or to enforce the terms of this Settlement Agreement; provided however, that in the event the FDIC-R declares this Agreement null and void, the FDIC-R will

return all amounts paid to it under this Agreement by the non-delivering Party, or Parties.

SECTION II: Releases

A. Release of Settling Defendants by FDIC-R.

Effective upon receipt in full of the Settlement Funds described in SECTION I above, and except as provided in Paragraph II.H., below, for itself and its successors and assigns, hereby releases and discharges each of the Settling Defendants, and all former directors, officers, and employees of the Bank, and their respective marital communities, agents, 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, known or unknown, 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, directors and employees 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 marital communities, agents, 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, known or unknown, 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 directors and employees 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 marital communities, agents, 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, known or unknown, that arise from or relate to the performance, nonperformance, or manner of performance of their respective functions, duties and actions as officers, directors and employees of the Bank.

D. Release of Chubb by FDIC-R.

Effective simultaneously with the releases granted in Paragraphs II.A. and II.B. above, except for the reservations provided in Paragraph II.H., below, the FDIC-R, for itself and its successors and assigns, hereby releases and discharges Chubb, 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, known or unknown, 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 Chubb by Settling Defendants.

Effective simultaneously with the releases granted in Paragraphs II.A. and II.B. above, the Settling Defendants, on behalf of themselves individually, and their respective marital communities, heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge Chubb, 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, known or unknown, that arise from or relate to funds expended under the Policy.

F. Release of FDIC-R by Chubb.

Effective simultaneously with the release granted in Paragraph II.D. above, Chubb, 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, known or unknown, that arise from or relate to the Policy.

G. Release of Settling Defendants by Chubb.

Effective simultaneously with the releases granted in Paragraph II.E. above, Chubb, 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 each of the Settling Defendants, and their respective marital communities, heirs, executors, administrators, 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, known or unknown, that arise from or relate to funds expended under the Policy.

H. 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 Bank;

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

c. which are not expressly released in Paragraphs II.A., II.D., or II.I.

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.

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 through either

the Department of Justice, the United States Attorney's Office for the Western District of Washington or any other 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.

I. Release of Chubb Under Cal. Civ. Code Section 1542

The Parties agree that the releases provided to Chubb include and encompass a release and waiver of any and all rights or benefits conferred by the provisions of Section 1542 of the California Civil Code and/or any other federal statute or common law principle of similar effect. In connection with this waiver, the Parties hereby acknowledge that they are aware that they may hereafter discover claims or facts in addition to, or different from, those which they now know or believe to exist with respect to the subject matter of this Agreement.

The Parties acknowledge that they have been advised by legal counsel and are familiar with the provisions of Section 1542 of the California Civil Code, which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him must have materially affected his or her settlement with the debtor.”

SECTION III: Waiver of Dividends

To the extent, if any, that Settling Defendants are or were shareholders of the Bank 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 the FDIC 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. Signed signature pages may be delivered by facsimile, email or .pdf transmission, which will constitute complete delivery without the necessity of delivery of original signed signature pages.

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 Washington.

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.

2. Further, the Individual Defendants agree to cooperate fully with the 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 the FDIC-R pursuant to its internal guidelines and policy for such reimbursement. Such cooperation shall consist of:

a. producing any documents in the party's possession, custody or control requested by the FDIC-R determined to be relevant to the Bank;

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

c. appearing to testify, upon request by the FDIC-R, in any matter determined to be relevant to the Bank

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

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.

[Signatures Below]

**FEDERAL DEPOSIT INSURANCE CORPORATION
as Receiver for Evergreen Bank, Seattle, WA**

(b)(6)

Date: August 27, 2013

BY:



TITLE: Counsel

PRINT NAME: Bryce Quine

[Additional Signatures Below]

Date: _____

Richard Baldwin

Date: _____

Dan Curtis

Date: _____

Gerald Hatler

Date: _____

Stanley McNaughton

Date: _____

Cliff Sullam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

(b)(6)

Date: _____

8/28/13

BY: _____

[Redacted Signature Box]

TITLE: _____

PRINT NAME: _____

VP

JAMES W. CAESON

(b)(6)

Date: 8-27-13

[Redacted Signature]

Richard Baldwin

Date: _____

Dan Curtis

Date: _____

Gerald Hatler

Date: _____

Stanley McNaughton

Date: _____

Cliff Sullam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

(b)(6)

to:

[Redacted Address]

Pol # 206-757-7018

DWT 22492523v1 0096819-00001

RE: Evergreen Bank

Date: _____

Richard Baldwin

(b)(6)

Date: 8, 27, 13



Dan Curtis

Date: _____

Gerald Hatler

Date: _____

Stanley McNaughton

Date: _____

Cliff Sulliam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

~~Richard Baldwin~~

Date: _____

~~Don Curtis~~

(b)(6)

Date: 8/27/13



Gerald Hatler

Date: _____

Stanley McNaughton

Date: _____

Cliff Sullam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY

By: Chubb & Son, a division of Federal Insurance Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

Richard Baldwin

Date: _____

Dan Curtis

Date: _____

Gerald Hatler

(b)(6)

Date: _____

Stanley McNaughton

Date: _____

Cliff Sullam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

Richard Baldwin

Date: _____

Dan Curtis

Date: _____

Gerald Hatler

Date: _____

Stanley McNaughton

(b)(6)

Date: 8/27/12

[Redacted Signature]

Cliff Sdlam

Date: _____

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____

Date: _____

Richard Baldwin

Date: _____

Dan Curtis

Date: _____

Gerald Hatler

Date: _____

Stanley McNaughton

Date: _____

Cliff Sullam

(b)(6)

Date: _____

[Redacted Signature Box]

Michael Tibbits

FEDERAL INSURANCE COMPANY
By: Chubb & Son, a division of Federal Insurance
Company, Manager

Date: _____

BY: _____

TITLE: _____

PRINT NAME: _____