

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into by and between the Federal Deposit Insurance Corporation, as Receiver of First State Bank of Altus, Altus, Oklahoma ("FDIC-R"); and St. Paul Mercury Insurance Company ("St. Paul"). Individually, the FDIC-R and St. Paul may be referred to herein as "Party" and collectively as the "Parties."

RECITALS

WHEREAS:

A. Prior to July 31, 2009, First State Bank of Altus, Altus, Oklahoma ("FSB" or "Bank") was a depository institution organized and existing under the laws of the State of Oklahoma.

B. On July 31, 2009, FSB was closed by the Oklahoma State Banking Department, 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, its shareholders, and creditors, including right and title with respect to the Bank's assets.

C. Among the assets to which the FDIC-R as receiver succeeded were any and all claims, demands, and causes of actions against the Bank's financial institution bond insurer(s), including against St. Paul as issuer of the Bond, as that term is defined below.

D. Prior to its closing, FSB sent a Notice of Loss ("Notice") and Proof of Loss ("Proof of Loss") on February 5, 2009, and May 7, 2009, respectively, to St. Paul under Insuring Agreement A-1 of that certain Financial Institution Bond, Bond No. issued by St. (b)(4)
Paul to the Bank (the "Bond"). On November 18, 2010, after the Bank was closed, the FDIC-R

submitted to St. Paul a supplement to the proof of loss ("Supplemental Proof of Loss"), explaining in more detail its claim under the Bond ("Claim").

E. On September 7, 2011, the FDIC-R filed suit against St. Paul on the Claim in the United States District Court for the Western District of Oklahoma, *FDIC v. St. Paul Mercury Insurance*, Case No. 11-civ-990 (W.D. Okla.) (the "Pending Litigation").

F. The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, 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. The Recitals above are incorporated herein by reference.

B. As an essential covenant and condition to this Agreement, St. Paul agrees to pay to the FDIC-R the sum of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) (the "Settlement Funds").

C. On or before July 2, 2013, the Settlement Funds shall be delivered to the FDIC-R by direct wire transfer to the Federal Home Loan Bank of New York, New York Main Office, 101 Park Avenue, New York, NY 10178-0599; ROUTING #: [REDACTED] FOR CREDIT (b)(4)
TO: FDIC National Liquidation Account; ACCOUNT #: [REDACTED] OTHER BENEFICIARY (b)(4)
INFORMATION (OBI): Fund code: 10093; Asset number: [REDACTED] Reference: (b)(4)
Professional Liability (37100) DIF Fund; Account officers to be notified and phone numbers:
(b)(6) [REDACTED] 972-761-2214; and Barry H. Gottfried (703) 562-2519; Description of the Transaction: FSB Altus Bond Claim Settlement.

D. Upon receipt of all Settlement Funds, the FDIC-R and St. Paul will jointly file a stipulation of voluntary dismissal under Fed. R. Civ. P. 41 (a)(1)(A)(ii), that provides that the dismissal of the Pending Litigation is with prejudice, and that each party is to bear its own costs and attorney's fees.

SECTION II: RELEASES

A. Release of St. Paul by FDIC-R.

Effective upon full payment by St. Paul of the Settlement Funds, the FDIC-R, for itself and its predecessors, successors and assigns, hereby releases and discharges St. Paul, its parents, subsidiaries, affiliates and reinsurers, and their respective employees, officers, directors, agents, representatives, predecessors, successors and assigns, from the Claim, including but not limited to any and all claims, demands, obligations, damages, actions and causes of action, direct or indirect, in law or in equity, statutory, non-contractual, or in tort, that the FDIC-R alleged or could have alleged against St. Paul in connection with the Notice, the Claim, the Proof of Loss, the Supplemental Proof of Loss, the Pending Litigation, and the Bond, and which the FDIC-R did allege or could have alleged against St. Paul that arise from or relate to the Claim, or St. Paul's adjusting of the Claim, or otherwise arise from, relate to or concern the Bond, and agrees that any interest it may have under the Bond is extinguished.

B. Release of FDIC-R by St. Paul.

Effective simultaneously with the release granted in Paragraph II. A. above, St. Paul, for itself and its predecessors, 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, predecessors, 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 Notice, the Claim, the Proof of Loss, the Supplemental Proof of Loss, and the Bond including but not limited to any rights of subrogation, legal, equitable, or otherwise.

C. Waiver of Subrogation by St. Paul.

St. Paul agrees to and hereby does irrevocably waive any rights of subrogation it may have relating to the Claim, including without limitation those arising from St. Paul'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"). St. Paul 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 St. Paul.

D. Express Reservations From Releases.

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 any 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 the FDIC-R, the Bank, other financial institutions, or any other person or entity, including without limitation any claims acquired by the FDIC-R as successor in interest to the Bank or any person or entity other than the Bank;

- b. against any person or entity not expressly released in this Agreement;
 - c. under or relating to any policy of insurance issued by St. Paul (or any other insurer) other than the Bond, and
 - d. which are not expressly released in Section II. A. above.
2. Notwithstanding any other provision, by this Agreement St. Paul 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 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 the St. Paul;
 - b. against any person or entity not expressly released in this Agreement;
 - c. under or relating to any policy of insurance issued by St. Paul (or any other insurer) other than the Bond, and
 - d. which are not expressly released in Section II. B. above.
3. Notwithstanding any other provision, this Agreement does not waive or release any claims or actions that could be brought by any person or entity other than the FDIC-R, including but not limited to any agency or instrumentality of the United States government.

SECTION III: REPRESENTATIONS AND ACKNOWLEDGMENTS

A. Ownership of the Claims. The FDIC-R represents and warrants that, pursuant to 12 U.S.C. §1821(d), the FDIC-R is the current lawful owner of, and that it has not assigned, sold, or transferred, any interest in the Claim and all other matters being released herein.

B. No Additional Actions. St. Paul hereby agrees that it will not bring, file, or otherwise pursue any claims against any party, in relation to the Bond, including any claims for indemnity or subrogation.

C. 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 a disputed claim, and that this Agreement is not an admission or evidence of liability by either of them regarding any claim nor is it intended to be, nor shall it be construed as, an interpretation of the Bond or any other insurance policy. This Agreement shall not be used as evidence, or in any other manner, before any court or any proceeding to create, prove, or interpret the obligations or alleged obligations of St. Paul under the Bond to the FDIC-R or to any non-party to this Agreement. Notwithstanding the foregoing, either Party may use the Agreement in any proceeding and in any manner as may be necessary to enforce the terms of the Agreement.

D. Cooperative Drafting. The Parties to this Agreement have participated jointly in the negotiation and preparation of this Agreement. Accordingly, each Party agrees not to assert that the other Party is the sole or principal drafter of the Agreement. Each Party also agrees not to assert that any canon of construction applicable to sole or principal drafters should be applied against the other Party.

E. 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.

F. Binding Effect. Each of the undersigned persons represents and warrants that they 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 insurers, agents, heirs, executors, administrators, representatives, attorneys, successors and assigns.

G. No Confidentiality. The Parties acknowledge and agree that this Agreement is a public document that will need to be publicly disclosed pursuant to 12 U.S.C. § 1821(s) and other applicable laws and regulations.

H. Construction. The descriptive headings of this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.

I. Notices. If any Party is required to give notice to another Party under this Agreement, such notice shall be (i) delivered personally, (ii) sent by Federal Express (or another recognized overnight or two-day courier) requesting next or second business day delivery, (iii) sent by facsimile, (iv) sent by United States certified or registered mail, postage prepaid, return receipt requested, or (v) sent by email with a confirmation to be sent the same day by one of the methods enumerated above. Any such notice shall be deemed given when (i) so delivered personally, (ii) if sent by express courier, one or two business days (as the case may be) following delivery to the courier, (iii) on the date sent by facsimile or email, with confirmation of transmission, if sent during normal business hours of the recipient, or, if not, then on the next business day, or (iv) if sent by certified or registered mail, five business days after the date of deposit in the United States mail to the respective address of the Party as set forth below, with copies sent to the persons indicated below:

To the FDIC-R:

David L. Bryant, Esq.
John Henry Rule, Esq.
GableGotwals
1100 ONEOK Plaza
100 West 5th Street | Tulsa, OK 74103-4217
Facsimile: (918).595.4990
Email: [REDACTED]

and

Barry H. Gottfried, Esq.
Counsel
Professional Liability Unit
Federal Deposit Insurance Corporation
3501 Fairfax Drive, Room VS-B-7018
Arlington, VA 22226-3500
Facsimile: (703) 516-5067
Email: [REDACTED]

To St. Paul Mercury Insurance Company:

Michael Keeley, Esq.
Jeremy T. Brown, Esq.
Strasburger & Price, LLP
901 Main Street, Suite 4400
Dallas, TX 75202
Facsimile: (214) 659-4186
Email: [REDACTED]
Email: [REDACTED]

and

Ronald G. Mund
St. Paul Mercury Insurance Company
385 Washington Street
St. Paul, MN 55102
Facsimile: (888) 256-5409
Email: [REDACTED]

or to such other address as the recipient Party has specified by prior written notice to the sending Party (or in the case of counsel, to such other readily ascertainable business address as such

counsel may hereafter maintain). If more than one method for sending notice as set forth above is used, the earliest notice date established as set forth above shall control.

J. 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 Oklahoma.

K. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein; provided that, the obligations set forth in the Agreed Protective Order approved by the court and filed in the Pending Litigation on March 14, 2012, shall remain in effect. 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).

L. Reasonable Cooperation. 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 perform the terms of this Agreement.

M. 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.

N. Authority to Settle. The FDIC-R, for itself and expressly in its capacity of having succeeded to all of FSB's rights against St. Paul under the Bond, and St. Paul, respectively, each warrant and represent that they are the persons or entities which have collectively all of the interest in the Claim and any of the rights, claims or matters being waived or released as set forth

in this Agreement, 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.

O. 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.

P. Effective Date. This Agreement is effective on the date signed by the last party signing below.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates hereinafter subscribed.

Date: June 21, 2013

Federal Deposit Insurance Corporation, as
Receiver of First State Bank of Altus

By: (b)(6)

Title: Counsel

Print Name: Barry H. Gottfried

Date: June 21, 2013

St. Paul Mercury Insurance Company

By: (b)(6)

Title: Director Financial Institution
Bond & Crime Claims

Print Name: Ronald G. Mund