SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 28th day of April, 2011, by, between, and among the following undersigned parties: The Federal Deposit Insurance Corporation as Receiver of Citizens Community Bank ("FDIC-R), James Bovino, Joel Belgard, Richard Lanza, Patrick Sanzari, Anthony Sciuto, Jack Vaughan, Charles Kaufman, James Atieh, and Thomas Emery (collectively, "the Settling Defendants"). The FDIC-R and the Settling Defendants may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

This Agreement is entered into in reference to the following:

1. Prior to May 1, 2009, Citizens Community Bank ("CCB" or "the Bank") was a state-chartered commercial bank operating in the State of New Jersey.

2. On May 1, 2009, the New Jersey Department of Banking and Insurance closed CCB and the FDIC-R was appointed receiver pursuant to 12 U.S.C. § 1821(c). 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 succeeded were any and all of claims, demands, and causes of actions against its former directors, officers and employees arising from the performance, nonperformance and/or manner of performance of their respective functions, duties and acts as directors, officers and/or employees of the Bank.

3. National Union Fire Insurance Company of Pittsburgh, Pa. ("National Union") issued Financial Institutions Risk Protector Policy Number [redacted] (the "Policy"). The (b)(4) Settling Defendants have made claims under the Policy in response to claims asserted by the

FDIC-R. National Union has raised questions and reserved rights as to whether the Policy is applicable to all such claims for payment and/or reimbursement of Loss.

4. The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of litigation. Among other things, the Parties have agreed that the Agreement shall be a settlement and release of all claims held by the FDIC-R, including its agents, successors and assigns, for all claims now or hereafter held by the FDIC-R against all former officers, directors and employees of CCB (collectively, the "Covered Persons") that arise from or relate to the performance, non-performance or manner of performance of the Covered Persons' respective functions, duties and/or actions as employees, officers and/or directors of CCB.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency and receipt of which consideration is hereby acknowledged, the Parties agree as follows:

Section I: Payment to FDIC-R

A. As an essential covenant and condition to this Agreement, the Settling Defendants and National Union shall pay to the FDIC-R the sum of One Million Five Hundred Fifty Thousand Dollars ($1,550,000) ("the Settlement Funds).

B. The Settlement Funds shall be delivered to FDIC-R within ten (10) business days ("the Due Date") from the date that the Settlement and Release Agreement is fully executed by all Parties.

C. If all Settlement Funds are not received by the due date, this Agreement shall be deemed null and void, having no legal validity or binding affect upon the Parties, other than the FDIC-R's right, in its sole discretion, to enforce this Agreement against the Party or Parties failing to deliver the

Settlement Funds, in which event the Parties agree to jurisdiction in Federal District Court in New Jersey.

Section II: Releases

A. <u>Release of Settling Defendants and Covered Persons by FDIC-R</u>

Effective upon payment of the Settlement Funds pursuant to Section I above, the FDIC-R, for itself and its agents, successors and assigns, hereby releases and discharges each of the Settling Defendants and all Covered Persons 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, (1) the performance, nonperformance, or manner of performance of the Settling Defendants' and/or Covered Persons' respective functions, duties and actions as employees, officers and/or directors of CCB and/or (2) the fact that any Settling Defendant or Covered person is or was an officer, director, or employee of CCB. For purposes of clarification and certainty, this release is applicable to, and includes each of the Settling Defendants and each and every Covered Person who is not a Settling Defendant, as well as each and every of their respective heirs, executors, administrators, representatives, successors and assigns. **The FDIC has also been advised that former officers and directors of CCB, including several of the Settling Defendants, have simultaneously entered into an agreement to settle certain claims asserted in the action entitled *Robert Lieb et. Al. v. James J. Bovino et al.* in the United States District Court for the District of New Jersey, Docket No. 2:10-CV-02685. Although the FDIC-R did not participate in the aforementioned settlement, it does not object to the settlement of the aforementioned action.**

B. <u>Release of FDIC-R by the Settling Defendants</u>

Effective simultaneously with the release granted in Paragraph A of this Section II, the Settling Defendants, on behalf of themselves individually, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge FDIC-R, and its employees, officers, directors, attorneys, 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, that arise from or relate to, or to the performance, nonperformance, or manner of performance of the Settling Defendants' respective functions, duties and actions as officers and/or directors of CCB or that arise from or relate to the Policy.

C. Release of National Union by FDIC-R

Effective simultaneously with the releases granted in Paragraphs A and B of this Section II, the FDIC-R, for itself and its successors and assigns, hereby releases and discharges National Union, 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, that arise from or relate to the Policy. The FDIC-R agrees that any interest it may have under the Policy is extinguished.

D. Release of National Union by Settling Defendants

Effective simultaneously with the releases granted in Paragraphs A and B of this Section II, the Settling Defendants, on behalf of themselves individually, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge National Union, 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, that are based upon claims by the FDIC-R against the Settling Defendants that have been released pursuant to this Agreement, including but not limited to any contractual or extra-contractual claims based upon the handling, defense, or resolution of the claims released by the FDIC-R. The Parties agree that this release shall be construed so that the Settling Defendants are deemed to release claims against only to the extent that the FDIC-R is deemed to release claims against the Settling Defendants. Furthermore, this release shall not affect obligations with respect to Defense Costs incurred by the Settling Defendants.

E. Express Reservations From Releases By FDIC-R

1. Notwithstanding any other provision, contained in 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 other evidence of indebtedness payable or owed by them or any of them to FDIC-R, other financial institutions, or any other person or entity, including without limitation any claims acquired by Federal Deposit Insurance Corporation in its corporate capacity ("FDIC-C") or as successor in interest to the Bank or any person or entity other than Bank; and

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

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-C 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 hereof, 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 District of New Jersey or any other federal judicial district. In addition, the right of the FDIC-R 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, also is not waived or released.

4. The FDIC-R represents and warrants that, as of the date of this Agreement, it has not transferred any claim, cause of action or other right that would be released hereunder if such claim, cause or action or right had not been previously transferred by the FDIC-R prior to the date of this Agreement, and to that end the Parties agree that the release by the FDIC-R set forth in Paragraph A of Section II is a full and complete release of all such claims, causes of action and rights.

Section III: Waiver of Dividends

To the extent, if any, that Settling Defendants are or were depositors, creditors and/or shareholders of and by virtue thereof are or may have been entitled to a dividend, payment, or other pro-rata distribution upon resolution of the receivership of they hereby knowingly assign to the FDIC-R 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. Each of the Parties 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 or of coverage 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 for which they are signing, 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. **Specific Representations and Warranties**. The Settling Defendants severally but not jointly swear and affirm that all financial information in the affidavits and financial statements prepared by them and provided to the FDIC-R pursuant to the FDIC-R's request was true and accurate at the time of submission.

E. **Reasonable Cooperation**.

1. The undersigned parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement.

F. **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 New Jersey.

G. **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).

H. **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.

I. **Enforcement of Agreement**. In the event that any Party brings suit to enforce the terms of this Agreement, or based on the alleged breach of the terms hereof, the Parties agree to exclusive venue in the United States District Court for the District of New Jersey, or in the event that the said federal court does not have jurisdiction, the Superior Court in and for Essex County. In such event, the prevailing Party or Parties shall be entitled to recover all costs incurred from the non-prevailing party or parties, including reasonable attorneys' fees.

J. **Time is of the Essence**. Time is of the essence in this Agreement, including specifically, payment of the Settlement Funds to FDIC-R on or before the due date.

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) [redacted]

By: [redacted]

Title: Counsel

Dated: 4/28/11

Print Name: Robert E. DeHenzel, Jr.

(b)(6) [redacted]

Dated: 5/18/11

James Boving [redacted]

(b)(6) [redacted]

Dated: 4/16/01 [redacted]

Joel Belgard

Dated: _____

Richard Lanza

Dated: _____

Patrick Sanzari

Dated: _____

Anthony Sciuto

Dated: _____

Jack Vaughan

Dated: _____

Charles Kaufman

Dated: _____

Thomas Emery

Dated: _____

James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

1333477

Dated: _____ _____
Joel Belgard

(b)(6) [redacted]

Dated: 4-16-11 _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

Dated: _____ _____
Thomas Emery

Dated: _____ _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

(b)(6) [redacted]

Dated: APRIL 25, 2011 _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

Dated: _____ _____
Thomas Emery

Dated: _____ _____
James Atich

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

(b)(6) [redacted]

Dated: 4/19/11 _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

Dated: _____ _____
Thomas Emery

Dated: _____ _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

(b)(6) [redacted]

Dated: _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

Dated: _____ _____
Thomas Emery

Dated: _____ _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

(b)(6) [redacted]

Dated: 4-15-2011 [redacted]
Charles Kaufman

Dated: _____ _____
Thomas Emery

Dated: _____ _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

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Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

(b)(6) [redacted]

Dated: 7/15/2014 _____
Thomas Emery [redacted]

Dated: _____ _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

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Dated: _____ _____
Joel Belgard

Dated: _____ _____
Richard Lanza

Dated: _____ _____
Patrick Sanzari

Dated: _____ _____
Anthony Sciuto

Dated: _____ _____
Jack Vaughan

Dated: _____ _____
Charles Kaufman

Dated: _____ _____
Thomas Emery

(b)(6) [redacted]

Dated: 4/16/11 _____
James Atieh

National Union Fire Insurance Company of Pittsburgh, PA

By: _____

Title: _____

Dated: _____ Print Name: _____

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