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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS

Case No. 08-5170

JAN TAYLOR, CARLA C. CROSSWHITE,  
and LAURA T. GODSEY, individually and  
on behalf of a class of all other persons  
similarly situated and on behalf of the ANB  
Financial, N.A. Employee Stock Ownership  
Plan,

Plaintiffs,

v.

ANB BANCSHARES, INC.; DANIEL  
DYKEMA; HARRY BROWN; GREGREY  
D. LANDIS; DEBRA JACKSON; ERIC  
BROWN, BLAKE EVANS, and VIC  
EVANS,

Defendants.

**STIPULATION AND AGREEMENT OF  
COMPROMISE AND SETTLEMENT  
OF CLASS ACTION**

1  
2 Subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil  
3 Procedure, this Settlement is entered into by Plaintiffs Jan Taylor, Carla C. Crosswhite, and Laura  
4 T. Godsey, individually and on behalf of the Class, and the Defendants, to settle this action on,  
5 and subject to, the terms and conditions described below. Capitalized terms and phrases have the  
6 meanings provided in Section 1 below.

7 **RECITALS**

8 WHEREAS, Named Plaintiffs commenced the Litigation asserting various claims for  
9 relief on behalf of the Class against the Defendants, all of which claims are disputed by the  
10 Defendants;

11 WHEREAS, the Litigation is pending before the Hon. Robert Dawson of the United  
12 States District Court for the Western District of Arkansas;

13 WHEREAS, the Court certified the Named Plaintiffs' claims for treatment as a  
14 mandatory class pursuant to Fed. R. Civ. P. 23(b)(1)(A) and/or 23(b)(1)(B) and appointed  
15 Lewis, Feinberg, Lee, Renaker & Jackson, P.C. and the Kendall Drewyor Law Firm as Class  
16 Counsel in the Litigation;

17 WHEREAS, the mediator has reviewed statements of net worth by the Individual  
18 Defendants and has informed Plaintiffs' counsel that he is satisfied that the Individual  
19 Defendants lack sufficient assets to satisfy the judgment sought by Plaintiffs in this case;

20 WHEREAS, the Parties desire to promptly and fully resolve and settle with finality all  
21 of the Released Claims;

22 WHEREAS, to accomplish that goal, the Parties have reached an agreement on the  
23 terms and conditions set forth in this Settlement;

24 NOW, THEREFORE, the Parties, in consideration of the promises, covenants and  
25 agreements described in this Agreement and for good and valuable consideration acknowledged  
26 by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby  
27 mutually agree as follows:  
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**I. DEFINITIONS**

Except as otherwise specified, the following terms used in this Settlement shall have the meanings ascribed to them as set forth below:

1.1. “*Administrator*” means Nicholas L. Saakvitne, pursuant to the terms of this Settlement and the Fiduciary Services Agreement attached as Exhibit D.

1.2. “*Class*” means all participants in the ANB Financial, N.A. Employee Stock Ownership Plan (“the Plan”) for whose individual accounts the Plan held shares of stock of ANB Bancshares, Inc., at any time from July 1, 2005, through May 9, 2008. Excluded from the Class are the Individual Defendants, officers and directors of the corporate defendants, members of their immediate families, and the beneficiaries, heirs, successors, or assigns of any of the foregoing.

1.3. “*Class Counsel*” means Lewis, Feinberg, Lee, Renaker & Jackson, P.C. and the Kendall Drewyor Law Firm.

1.4. “*Class Member(s)*” means any member of the Class, individually or collectively.

1.5. “*Class Notice*” means the form of notice appended as Exhibit 1 and the summary form of notice appended as Exhibit 2 to the form of Preliminary Approval Order attached hereto as Exhibit A.

1.6. “*Company*” means ANB Financial, N.A. and ANB Bancshares, Inc.

1.7. “*Court*” means the United States District Court for the Western District of Arkansas.

1.8. “*Defendants*” means ANB Bancshares Inc. and the Individual Defendants.

1.9. “*Effective Date*” means the date when all of the following have occurred: (a) the Final Judgment has been entered by the Court; and (b) the time to appeal the Final Judgment has expired or, if appealed, the Final Judgment has been upheld on appeal. In the event no Final Judgment is entered or the Final Judgment is not upheld on appeal, the Effective Date shall not occur and the Settlement shall terminate pursuant to the terms set forth in Paragraph 6.3.

1.10. “*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 *et seq.*

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1.11. *“Final Approval and Fairness Hearing”* means a hearing by the Court to (a) review this Settlement and determine whether the Court should give final approval to this Settlement; (b) consider any timely objections made pursuant to Paragraph 5.6 and all responses by the Parties; (c) give final approval to this Settlement under Rule 23(e) of the Federal Rules of Civil Procedure; (d) consider the request for attorney’s fees and expenses submitted by Class Counsel; and (e) consider the Named Plaintiffs’ requests for incentive awards.

1.12. *“Financial Institution”* means the First Republic Bank in San Francisco, California.

1.13. *“Final Judgment”* means the Order of Final Approval of Class Action Settlement and Entry of Final Judgment entered by the Court dismissing the Litigation with prejudice, substantially in the form attached as Exhibit B.

1.14. *“Implementation Notice”* means the Notice of Settlement Implementation, substantially in the form attached as Exhibit C.

1.15. *“Independent Fiduciary”* means an independent fiduciary retained by Defendants under Paragraph 4.1 to ensure compliance with Prohibited Transaction Class Exemption 2003-39, as amended.

1.16. *“Individual Defendants”* means Daniel Dykema, Harry Brown, Gregrey D. Landis, Debra Jackson, Eric Brown, Blake Evans, and Vic Evans.

1.17. *“Litigation”* means the above-captioned lawsuit, Civil Case No. C 08-5170-RTD (W.D. Ar.), and all contentions, claims, and defenses at issue in that lawsuit.

1.18. *“Mediator”* means the Hon. Layn R. Phillips.

1.19. *“Named Plaintiffs”* means Jan Taylor, Carla C. Crosswhite, and Laura T. Godsey.

1.20. *“Net Settlement Fund”* means the amount remaining from the Settlement Fund after distributions to cover the payment of Court-approved attorney’s fees and costs, incentive payments to the Named Plaintiffs, and the Administrator’s fees and any taxes on interest.

1.21. *“Party”* or *“Parties”* means Named Plaintiffs and Defendants, individually or collectively.

1.22. *“Plan”* means the ANB Financial, N.A., Employee Stock Ownership Plan

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2 1.23. "*Plan of Allocation*" means the terms and procedures by which the Settlement  
3 Fund shall be distributed among the Class Members, as proposed in the Class Notice, or such  
4 other plan of allocation as the Court shall approve.

5 1.24. "*Preliminary Approval Order*" means the [Proposed] Order Preliminarily  
6 Approving Class Action Settlement, Directing Notice to Class, and Setting Final Approval and  
7 Fairness Hearing, substantially in the form attached as Exhibit A.

8 1.25. "*Released Claims*" means any and all claims of any nature whatsoever, that relate  
9 to the Defendants' duties, responsibilities, acts, or omissions in connection with the Plan or its  
10 assets whether accrued or not, whether known or unknown, in law or in equity.

11 1.26. "*Released Persons*" means Defendants, and, to the extent applicable by the nature  
12 of each Defendant, their respective present and former directors, officers, employees, trustees,  
13 participating employers, agents, controlling stockholders, insurers, co-insurers, attorneys,  
14 accountants, actuaries, advisors, auditors, banks, parent entities, subsidiaries, affiliates,  
15 professional advisors, administrators, representatives, partners, and co-venturers, as well as the  
16 predecessors, successors, and assigns of all such persons or entities.

17 1.27. "*Releasers*" means Named Plaintiffs, each Class Member individually and  
18 collectively, and, subject to Paragraph 4.1 below, the Plan, as well as his, her, or its predecessors,  
19 successors, attorneys, partners, heirs, executors, administrators, beneficiaries, representatives,  
20 agents, and assigns.

21 1.28. "*Settlement*" means this Stipulation and Agreement of Compromise and Settlement  
22 of Class Action, including its exhibits.

23 1.29. "*Settlement Approval Papers*" means Plaintiffs' Motion for Preliminary Approval  
24 filed in conjunction with this Settlement Agreement and Plaintiffs' Motion for Final Approval to  
25 be filed in advance of the Final Approval and Fairness Hearing.

26 1.30. "*Settlement Fund*" means the two million dollar (\$2 million) fund established by  
27 Defendants as a qualified settlement fund pursuant to Paragraph 5.2, below, plus interest earned  
28 thereon from the date of deposit into the fund pursuant to Paragraph 5.2 below, to the date of  
distribution.

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**2. PAYMENT TO THE CLASS MEMBERS**

**2.1. Payments To Class Members**

Following application for, and Court determination of, the amount (if any) of fees and expenses payable to Class Counsel, the incentive awards to Named Plaintiffs, and the Administrator's fees and any taxes on interest, the Administrator shall cause the payment of such awarded amounts from the Settlement Fund in the manner described in Paragraphs 5.10.1.1 and 5.10.1.2. The Administrator shall then distribute the Net Settlement Fund among the Class Members according to the Plan of Allocation in the manner and at the time described in Paragraph 5.10.1.

**2.2. Deceased Class Members**

In the event a Class Member is deceased, payment shall be made to: (a) the Class Member's designated beneficiary or beneficiaries under the Plans, if such can be ascertained from records of the Plans; or (b) the executor, personal representative, or administrator that has obtained letters of appointment to administer the decedent's estate through formal or informal appointment procedures; or (c) such other representative that presents legal evidence of entitlement to the decedent's payment in form and substance satisfactory to the Administrator.

**2.3. Incapacitated Class Members**

In the event a Class Member has been determined by a court of competent jurisdiction not to have the capacity to manage such individual's property, payment shall be made to: (a) the duly appointed conservator or guardian of such legally incompetent person that has obtained letters of appointment to administer such person's estate through formal or informal appointment procedures, or (b) such other legal representative that presents legal evidence of entitlement to the legally incapacitated person's payment in form and substance satisfactory to the Administrator.

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2           **3.           RELEASE AND DISCHARGE**

3           In consideration for the other terms of this Settlement, Releasors fully, completely and  
4 finally settle and discharge the Released Persons from the Released Claims. The Parties stipulate  
5 and agree that, by the terms of the Final Order, each Class Member shall have and be deemed to  
6 have waived and relinquished, to the fullest extent permitted by law, any and all claims  
7 whatsoever arising out of or in any way related to, directly or indirectly, any duty, responsibility,  
8 act, or omission of any Defendant in relation the Plan. As a Releasor, the Plan shall be precluded  
9 from pursuing any other action, demand, suit, or other claim in any judicial or administrative  
10 forum whatsoever, against the Released Persons with respect to the Released Claims, whether  
11 through an action under ERISA § 502(a)(2) or otherwise

12           The Parties understand and agree that the releases to be given pursuant to this Settlement  
13 shall include Released Claims that are not known or suspected to exist at the time such releases  
14 are given. Nothing herein, however, shall preclude any action or claim related to the  
15 implementation and/or enforcement of this Settlement. Named Plaintiffs and each Class Member  
16 provide this release individually and on behalf of the Releasors. Upon the filing of the  
17 Implementation Notice, Named Plaintiffs and each and every Class Member shall be bound by  
18 this Settlement, shall have exclusive recourse to the benefits, rights, and remedies provided by  
19 this Settlement regarding the Released Claims and shall be precluded from pursuing any other  
20 action, demand, suit, or other claim, in any judicial or administrative forum whatsoever, against  
21 the Released Persons with respect to the Released Claims.

22           **4.           INDEPENDENT FIDUCIARY**

23           4.1.    Defendants may, at their option, retain an Independent Fiduciary, who has no  
24 relation to or interest in any of the Parties, to ensure compliance with Prohibited Transaction  
25 Class Exemption 2003-39, as amended, and to provide a release on behalf of the Plan as  
26 referenced in Paragraph 3.2, *supra*. In so doing, the Independent Fiduciary will make  
27 determinations that shall include whether: (i) the Settlement, including the scope of the release  
28 and amount of the attorney's fee award to be paid from the recovery, is reasonable, the risks and  
costs of litigation, and the value of the claims foregone; (ii) the terms and conditions of the

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2 transaction are no less favorable to the Plan than comparable arms-length terms and conditions  
3 that would have been agreed to by unrelated parties in similar circumstances; and (iii) the  
4 transaction is not part of an agreement, arrangement, or understanding designed to benefit a party  
5 in interest.

6 4.2 All Parties shall cooperate in providing such information to the Independent  
7 Fiduciary as may be required or requested.

8 4.3. Written notice of the Independent Fiduciary's decision to approve or decline to  
9 approve the Settlement shall be given to counsel for each Party no later than 45 days before the  
10 date set for the Final Approval and Fairness Hearing.

11 **5. PROCEDURES AND TIMING FOR APPROVAL AND PAYMENT OF**  
12 **SETTLEMENT FUND**

13 5.1. Preliminary Approval

14 The Parties will submit this Settlement to the Court for preliminary approval of its terms and  
15 for approval of the steps to be taken to obtain its final approval. The Parties will request that the  
16 Court's preliminary approval of this Settlement be embodied in a Preliminary Approval Order, a  
17 proposed form of which is attached as Exhibit A.

18 5.2. Creation of Qualified Settlement Fund

19 The Settlement Fund shall be structured and managed to qualify as a Qualified Settlement  
20 Fund under Section 468B of the Internal Revenue Code and Treasury Regulations promulgated  
21 thereunder and shall make tax filings and provide reports to the Administrator for tax purposes.  
22 The Administrator shall be the administrator of the Qualified Settlement Fund within the meaning  
23 of Treasury Regulation 1.468B-2(k)(3), and shall be responsible for complying with the tax  
24 obligations of the Settlement Fund and paying from the Settlement Fund any taxes and tax  
25 compliance costs owed with respect to the Settlement Fund. The statement required by Treasury  
26 Regulation 1.468-3(e) shall be the obligation of the transferor. It is intended that the Qualified  
27 Settlement Fund be structured and administered to preserve, to the maximum degree possible, the  
28 tax benefits associated with ERISA-qualified plans. The Parties shall not take a position in any  
filing or before any tax authority inconsistent with such treatment. All taxes on the income of the

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2 Qualified Settlement Fund and tax-related expenses incurred in connection with the taxation of  
3 the Qualified Settlement Fund shall be paid out of the Qualified Settlement Fund. The  
4 Administrator shall have signature authority over the Settlement Fund and shall direct the  
5 Financial Institution to pay from the Settlement Fund the reasonable cost of administering the  
6 Settlement Fund without further order of the Court, which expenses shall include (i) expenses  
7 associated with the preparation and filing of all tax reports and tax returns required to be filed by  
8 the Settlement Fund; (ii) payment of any taxes owed by the Settlement Fund; (iii) expenses  
9 associated with the preparation and issuance of any required Forms 1099 associated with  
10 payments from the Settlement Fund; and (iv) fees charged and expenses incurred by the Financial  
11 Institution associated with administration of the Settlement Fund. The Administrator may instruct  
12 the Financial Institution to reserve any portion of the Settlement Fund for the purpose of  
13 satisfying future or contingent expenses or obligations, including expenses of Settlement Fund  
14 administration or any disbursement provided in Section 2 hereof. Defendants will take no  
15 position, directly or indirectly, with respect to such matters and Defendants shall have no  
16 responsibility, duty, obligation, or liability whatsoever in relation to the Settlement Fund or any  
17 tax consequences associated therewith and shall be held harmless by Plaintiffs and the  
18 Administrator in connection therewith.

19           5.3     Deposit of Settlement Fund

20           Within ten (10) business days after this Court preliminarily approves the Settlement, or  
21 wire transfer instructions are provided to Defendants' insurer, whichever is later, Defendants'  
22 insurer shall pay \$2.0 million into a Qualified Settlement Fund account at the Financial  
23 Institution. Pending distribution, the monies held in the Escrow Account shall be invested solely  
24 in direct obligations of the U.S. Government and the interest earned shall accrue to the benefit of  
25 the Class. Upon Final Approval by the Court, following disbursement of the amounts listed in  
26 Section 1.19 the Financial Institution shall transfer the Net Settlement Fund into an account in the  
27 name of the Plan upon the direction of the Administrator.

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5.4. Notice to Class Members

5.4.1. Notice by Mail

The Administrator shall mail the Class Notice to all Class Members not later than two weeks (14 days) after entry of the Court’s Preliminary Approval Order by first-class mail, postage prepaid. The Parties will ask the Court to approve the Class Notice in the form attached as Exhibit 1 to the Proposed Preliminary Approval Order attached hereto as Exhibit A.

5.4.2. Additional Notices

To request a copy of the Class Notice, any individual or entity that believes he, she, or it is a Class Member and who did not receive a copy of the Class Notice must submit a written request to the Administrator containing all of the following information: (a) the full name and, if applicable, Social Security Number of (i) the person making the request and (ii) the employee through whose services the person claims to be a Class Member; (b) the name used by such employee as of the time that his or her employment with the Company ended; and (c) the years during which such employee was employed with the Company. The request must be mailed by first-class mail, postage prepaid, to:

Nicholas L. Saakvitne  
532 Colorado Avenue, Second Floor  
Santa Monica, California 90401-2408

The request must be postmarked on or before thirty (30) days following the entry of the Court’s Preliminary Approval Order. The Administrator shall cause a copy of the Class Notice to be promptly sent by first-class mail, postage prepaid, to each person or entity who submits a timely written request conforming to the requirements of this Paragraph.

5.4.3. Undeliverable Notices

In the event that a Class Notice sent by mail is returned as undeliverable, the Administrator shall make reasonable efforts to obtain a valid mailing address within five (5) days of the date of the return of the Class Notice. In any event, such efforts must be completed no less than sixty (60) days before the Final Approval and Fairness Hearing date. Following each search that results in a corrected address, the Administrator shall promptly resend the Class Notice to the Class Member by first-class mail, postage prepaid.

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5.4.4 Publication Notice.

Beginning no more than two weeks (14 days) after entry of the Court's Preliminary Approval Order, Class Counsel shall cause to be published in the Arkansas Gazette for five consecutive days the Summary Notice attached as Exhibit 2 to the Proposed Preliminary Approval Order attached hereto as Exhibit A.

5.5. Filing of Motions for Fees and Expenses and Incentive Awards

Pursuant to the requirements of Civil Local Rule 54.1, Class Counsel shall file a motion for an award of attorney's fees not to exceed 30% and expenses from the Settlement Fund, which motion shall be heard at the time of the Final Approval and Fairness Hearing. At the time of filing such motion, Class Counsel may also apply for incentive awards to the Named Plaintiffs not to exceed \$10,000 per Named Plaintiff. Defendants shall not endorse or oppose either application.

5.6. Objections to Settlement

Any Class Member who wishes to object to this Settlement or otherwise to be heard concerning this Settlement, shall timely inform the Administrator and the Court in writing of his, her, or its intent to object to this Settlement and/or appear at the Final Approval and Fairness Hearing by following the procedures set forth in the Class Notice. To be considered timely, the notice must bear a postmark that is within forty-five (45) days after the Class Notice is mailed. The notice must set forth any and all objections to this Settlement and include any supporting papers and arguments. Any person or entity who fails to submit such a timely written notice shall be barred from making any statement objecting to this Settlement, including at said hearing, and shall forever waive his, her, or its objection(s), except by special permission of the Court. Class Counsel shall file the objections with the Court at the time set forth in Paragraph 5.7 for filing the motion for final approval.

5.7 Final Approval and Fairness Hearing

On the date set forth in the Class Notice, which shall not be less than ninety (90) days after entry of the Preliminary Approval Order, the Court shall hold the Final Approval and Fairness

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Hearing. Plaintiffs will file their motion for final approval no later than thirty-five (35) days before the hearing.

5.8. Final Judgment

The Parties shall request that if the Court approves this Settlement at the Final Approval and Fairness Hearing, it enter the Final Judgment in the form attached as Exhibit B.

5.9. The terms of a qualified domestic relations order (“QDRO”) (as defined in ERISA section 206(d)(3)(B)(i), 29 U.S.C. § 1056(d)(3)(B)(i)) that applied to any distribution from the Plan on or following July 1, 2005, shall be binding for purposes of any distribution from the Settlement Fund, provided that the Class Member seeking to enforce the terms of the QDRO notifies the Administrator of the existence of the QDRO and provides whatever information and/or documentation the Administrator needs to verify the validity of the QDRO. Such notification and submission of a certified copy of the QDRO must be mailed no later than 30 days following entry of the Final Judgment.

5.10. Implementation

5.10.1. Implementation of this Settlement shall take place following the Effective Date as follows:

5.10.1.1. Attorney’s fees and expenses awarded by the Court shall be paid from the Settlement Fund to Class Counsel within ten (10) business days after the Effective Date.

5.10.1.2. If awarded by the Court, incentive awards to Named Plaintiffs shall be paid from the Settlement Fund by bank check made payable to Named Plaintiffs within ten (10) business days after the Effective Date and sent via first-class mail to each Named Plaintiff at an address to be specified at that time by Class Counsel in writing.

5.10.1.3. The Net Settlement Fund will be allocated among members of the Class based upon the vested balance in the Class members’ individual accounts on May 9, 2008. If a Class member did not have a vested balance on May 9, 2008, he, she or it will not receive an allocation of the Net Settlement Funds. The Administrator will calculate the amount due to each Class Member.

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2           5.10.2. When this Settlement has been fully implemented, the Administrator will  
3 certify to the Court by way of a declaration filed by Class Counsel: (1) that the Administrator has  
4 used its best and reasonable efforts to properly identify and locate each Class Member; (2) that  
5 the amount due to each Class Member has been accurately calculated; and (3) that the monies  
6 have been paid out of the Settlement Fund. Plaintiffs shall file an Implementation Notice with  
7 the Court, substantially in the form attached as Exhibit C. The Implementation Notice shall be  
8 accompanied by the declaration described in this Paragraph. Upon filing of the Implementation  
9 Notice and the declaration, the condition subsequent in the Final Judgment shall be satisfied.

10           5.11.     Responsibility for Payment of Benefits and Administration of this Settlement

11           5.11.1. Defendants shall be responsible for paying the fees and costs incurred by  
12 the Independent Fiduciary.

13           5.11.2. Defendants warrant that they have produced to Plaintiffs all documents in  
14 their possession that identify Plan participants. Defendants shall cooperate as needed in obtaining  
15 Class Member information from FDIC or other sources.

16           5.11.3 All other fees and expenses incurred for administration of this settlement  
17 shall be paid from the Settlement Fund in an amount not to exceed \$32,500.

18           5.11.4. The Administrator shall provide the following services as described in the  
19 Fiduciary Services Agreement attached as Exhibit D: (a) providing notice to class members in  
20 accordance with Section 5.4; (b) preparing any necessary plan documents; (c) preparing Form  
21 5500s, as necessary; (d) computing and distributing the amounts due each Class Member  
22 according to the Plan of Allocation; (e) providing distribution election forms and tax information  
23 to each Class Member; (f) responding to Class Member inquiries regarding distributions; and  
24 (g) completing tax reports of the distributions.

25     **6.     TERMINATION OF THIS SETTLEMENT**

26           6.1.     This Settlement can be terminated at the discretion of any Party if the Party  
27 believes in good faith that one of the following events is material: (a) the Court declines to enter  
28 any portion of the Preliminary Approval Order in the form attached as Exhibit A; (b) the Court  
declines to approve this Settlement; (c) the Court declines to enter the Final Judgment in the form

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2 attached as Exhibit B; (d) the Court requires changes that are not acceptable to any of the Parties  
3 or (e) the Final Judgment is modified or reversed in any material respect on appeal,  
4 reconsideration, or rehearing. Denial of attorney's fees or incentive awards, in whole or in part,  
5 shall not be deemed material under this Paragraph.

6           6.2     In the event of judicial modification to the substance of any of the exhibits to this  
7 Settlement, each Party shall have fourteen (14) days from the date of receipt of the notice of the  
8 modification(s) to provide written notice to counsel for the other Party that the Party does not  
9 agree to proceed with this Settlement due to such modification(s). If a Party provides such  
10 written notification, this Settlement shall be null and void and without further force and effect.

11           6.3.    If this Settlement is terminated or not consummated for any reason, then, except  
12 for the obligations of the Parties under this Paragraph, this Settlement shall be deemed null and  
13 void and shall have no further force and effect, and neither this Settlement nor the negotiations  
14 leading to it shall be used or referred to by any person or entity in this Litigation or in any other  
15 action or proceeding for any purpose. The Parties shall then be restored to their respective  
16 positions in the Litigation as of July 16, 2010, except that the trial and pretrial dates set on the  
17 Court's calendar at that time shall be re-set to future available dates on the Court's calendar. In  
18 such event, any judgment or order entered by the Court in accordance with the terms of this  
19 Settlement shall be treated as vacated, *nunc pro tunc*.

20           **7.     NO ADMISSION OF LIABILITY**

21           The Parties understand and agree that this Settlement Agreement embodies a compromise  
22 of disputed claims, and nothing in this Settlement Agreement, including the furnishing of  
23 consideration for this Settlement Agreement, shall be deemed to constitute any finding of  
24 wrongdoing by any of Defendants, or give rise to any inference of wrongdoing or admission of  
25 wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the  
26 consideration provided in connection with it are made in compromise of disputed claims solely  
27 for the purpose of avoiding continued litigation costs and are not admissions of liability of any  
28 kind, whether legal or factual. Defendants have denied, and continue to deny, that they have  
committed any violation of ERISA or other laws and have agreed hereto solely for the purpose of

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avoiding the cost and inefficiency inherent in further litigation of this Action. Neither the facts nor the terms of this Settlement Agreement shall be offered or received in evidence in any action or proceeding for any purpose, except (i) in an action or proceeding to enforce this Settlement Agreement or arising out of relating to the Preliminary Approval Order or the Final Approval Order, or (ii) in an action or proceeding where the release of the Released Claims may serve as a bar to recovery.

**8. COOPERATION**

The Parties agree to cooperate fully with one another in seeking Court approval of this Settlement and to use their best efforts to effect its consummation. Such efforts include, without limitation, the execution of any documents reasonably necessary to implement the provisions of this Settlement and cooperation in seeking appropriate orders from the Court. Neither Named Plaintiffs nor Defendants shall evade their good faith obligation to seek approval of this Settlement by virtue of any rulings, orders, governmental reports, or any other developments in any action that might occur after the Parties execute this Settlement that might be deemed to alter the relative strength of any claim or defense in the Litigation.

**9. AMENDMENT OF SETTLEMENT**

This Settlement may be amended or modified only by a written instrument signed by the Parties or their respective successors-in-interest.

**10. WAIVER**

No waiver of any breach of any term or provision of this Settlement shall be construed to be, or shall be, a waiver of any other breach of this Settlement. No waiver shall be binding unless in writing and signed by the Party waiving the breach.

**11. SUCCESSORS AND ASSIGNS**

This Settlement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties.

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**12. COUNTERPARTS**

This Settlement may be executed in one or more counterparts, all and each of which shall be deemed one and the same instrument. Signatures transmitted via facsimile or .pdf shall have the same force and effect as the originals.

**13. CONSTRUCTION**

Each Party represents and warrants that he, she, or it has cooperated in the drafting and preparation of this Settlement. The Parties additionally agree that, in any construction of this Settlement, this Settlement shall not be construed against any Party on the basis that the Party may have had a greater part in drafting this Settlement. The Parties also agree that the terms of this Settlement shall be interpreted according to their fair meaning. The headings of sections and paragraphs herein are for convenience of reference only and shall not affect the meaning or interpretation of this Settlement.

**14. ENTIRE AGREEMENT**

This Settlement and its accompanying exhibits set forth the entire agreement and understanding of the Parties concerning the subject matter hereof, and supersede and replace all prior negotiations, proposed agreements, and any other agreements, written or oral. Each of the Parties to this Settlement acknowledges that no other Party to this Settlement, nor any agent or attorney of any such Party, has made any statement, promise, representation, or warranty whatsoever, express or implied, not contained in this Settlement, to induce any Party to execute this Settlement. The Parties further acknowledge that they are not executing this Settlement in reliance on any promise, representation, or warranty not contained in this Settlement.

**15. GOVERNING LAW**

To the extent not governed by federal law, the rights and obligations of the Parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Arkansas, without giving effect to choice of law principles.

**16. ADVICE OF COUNSEL**

In entering into this Settlement, the Parties represent that they have relied upon the advice of their attorneys, who are attorneys of their own choice, that the terms of this Settlement have

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been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them.

**17. SEVERABILITY**

Subject to Section 6, if any provision of this Settlement or its application is held invalid, the invalidity shall not affect any other provision or application of this Settlement that can be given effect without the invalid provision(s) or application(s) and, to this end, the Parties declare that the provisions of this Settlement are severable.

**18. AUTHORITY**

Each person executing this Settlement hereby warrants and represents that he or she has the full authority to do so. Each Party further warrants and represents that he, she, or it has not assigned or transferred to any person any Released Claim, in whole or in part, and that he, she, or it shall defend, indemnify, and hold harmless the other Parties from and against any claim based on or in connection with any such assignment or transfer made, or claimed to have been made, by him, her, or it.

**19. COSTS AND EXPENSES**

Except as provided in Paragraph 5.10.1.1, each Party shall bear his, her or its own costs, expenses, and fees incurred in and associated with the Litigation and with effectuating the agreement embodied in this Settlement.

**20. DISPUTES OVER MEANING OF SETTLEMENT**

Each Party consents to the jurisdiction of the United States District Court for the Western District of Arkansas with respect to any proceedings brought to enforce or interpret this Settlement and hereby waives all objections to venue and personal and subject matter jurisdiction in that regard. Any dispute over the meaning or intent of this Settlement, and any proceeding or action to enforce or interpret the terms or provisions of this Settlement, shall be brought in the United States District Court for the Western District of Arkansas.

**21. CALCULATION OF TIME PERIODS**

The computation of any date or period of time prescribed by this Agreement shall be governed by Rule 6(a) of the Federal Rules of Civil Procedure.

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**22. PUBLICITY**

Other than as otherwise explicitly set forth in this Settlement, the Parties agree not to publicize the fact or terms of the Litigation and Settlement. No Party shall issue a press release or contact any publisher regarding the Settlement or respond to media inquiries on and off the record concerning the Settlement or Litigation. Class Counsel shall limit all references to the Litigation and the Settlement on Class Counsel's website to a statement that the Parties have agreed to this Settlement, with links to the Class Notice, this Settlement Agreement and exhibits, and other case filings, including, if issued, the Final Approval Order. The Parties agree that the Class Notice and Settlement Approval Papers may reference Defendants' inability to satisfy a judgment from their personal assets in the event that Plaintiffs succeeded in obtaining one, the amount of Defendants' insurance coverage, and that coverage has been reduced by defense costs and will be further reduced in the event of continued litigation. The Parties may discuss the Litigation and Settlement with the United States Department of Labor and the FDIC as necessary to facilitate approval or implementation of the Settlement.

Date: <sup>June 10</sup> ~~May~~, 2011 *df*

JAN TAYLOR

By: *Jan Taylor*

Date: <sup>June 10</sup> ~~May~~, 2011

CARLA C. CROSSWHITE

By: *Carla C. Crosswhite*

Date: <sup>June 10</sup> ~~May~~, 2011

LAURA T. GODSEY

By: *L Godsey*

Date: May, 2011

ANB BANCSHARES, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: May, 2011

DANIEL DYKEMA

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Date: May , 2011

JAN TAYLOR

By: \_\_\_\_\_

Date: May , 2011

CARLA C. CROSSWHITE

By: \_\_\_\_\_

Date: May , 2011

LAURA T. GODSEY

By: \_\_\_\_\_

Date: May<sup>31</sup>, 2011

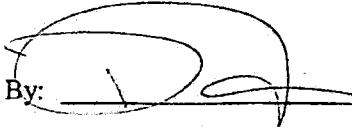
ANB BANCSHARES, INC.

By:   
Its: \_\_\_\_\_

Date: May<sup>31</sup>, 2011

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By:  \_\_\_\_\_

Date: May , 2011 HARRY BROWN

By: \_\_\_\_\_

Date: May , 2011 GREGREY D. LANDIS

By: \_\_\_\_\_

Date: May , 2011 DEBRA JACKSON

By: \_\_\_\_\_

Date: May , 2011 ERIC BROWN

By: \_\_\_\_\_

Date: May , 2011 BLAKE EVANS

By: \_\_\_\_\_

Date: May , 2011 VIC EVANS

By: \_\_\_\_\_

**APPROVED AS TO CONTENT AND FORM:**

Date: May , 2011 LEWIS, FEINBERG, LEE, RENAHER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAHER

Attorneys for Plaintiffs and the Class

Date: May , 2011 MORGAN LEWIS & BOCKIUS

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS

Attorneys for Defendants

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Date: May 31, 2011  
By: \_\_\_\_\_  
HARRY BROWN  
By: Harry Brown

Date: May , 2011  
By: \_\_\_\_\_  
GREGREY D. LANDIS

Date: May , 2011  
By: \_\_\_\_\_  
DEBRA JACKSON

Date: May , 2011  
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ERIC BROWN

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BLAKE EVANS

Date: May , 2011  
By: \_\_\_\_\_  
VIC EVANS

**APPROVED AS TO CONTENT AND FORM:**  
Date: May , 2011  
By: \_\_\_\_\_  
LEWIS, FEINBERG, I.EE. RENAHER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM  
TERESA S. RENAHER  
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Date: May , 2011 MORGAN LEWIS & BOCKIUS  
By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS  
Attorneys for Defendants

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HARRY BROWN

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Date: May <sup>31</sup>, 2011 GREGREY D. LANDIS

By: Gregrey D Landis

Date: May , 2011 DEBRA JACKSON

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**APPROVED AS TO CONTENT AND FORM:**

Date: May , 2011 LEWIS, FEINBERG, LEE, RENAHER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAHER

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Date: May , 2011 MORGAN LEWIS & BOCKIUS

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS

Attorneys for Defendants

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HARRY BROWN

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GREGREY D. LANDIS

Date: May ~~8~~, 2011 By: \_\_\_\_\_  
DEBRA JACKSON

Date: May , 2011 By: *Debra Jackson*  
ERIC BROWN

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BLAKE EVANS

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VIC EVANS

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**APPROVED AS TO CONTENT AND FORM:**

Date: May , 2011 LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAKER

Attorneys for Plaintiffs and the Class

Date: May , 2011 MORGAN LEWIS & BOCKIUS

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS

Attorneys for Defendants

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**APPROVED AS TO CONTENT AND FORM:**

Date: May , 2011 LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAKER

Attorneys for Plaintiffs and the Class

Date: May , 2011 MORGAN LEWIS & BOCKIUS

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS

Attorneys for Defendants

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**APPROVED AS TO CONTENT AND FORM:**

Date: May , 2011 LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAKER  
Attorneys for Plaintiffs and the Class

Date: May , 2011 MORGAN LEWIS & BOCKIUS

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALS  
Attorneys for Defendants

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Date: May 2011  
By: \_\_\_\_\_  
GREGORY D. LANDES

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By: \_\_\_\_\_  
BLAKE EVANS

Date: May 7, 2011  
By: \_\_\_\_\_  
VIC EVANS  


APPROVED AS TO CONTENT AND FORM:

Date: May 2011  
LEWIS, FURNBERG, LEE, RENAKER & JACKSON, P.C.  
RENDALL DREWYOR LAW FIRM

By: \_\_\_\_\_  
TERESA S. RENAKER

Attorneys for Plaintiffs and the Class

Date: May 2011 MORGAN LEWIS & BUCKLE

By: \_\_\_\_\_  
GREGORY C. BRADEN  
CHRISTOPHER WEALE

Attorneys for Defendants

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Date: May , 2011 HARRY BROWN

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Date: May , 2011 GREGREY D. LANDIS

By: \_\_\_\_\_

Date: May , 2011 DEBRA JACKSON

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Date: May , 2011 ERIC BROWN

By: \_\_\_\_\_

Date: May , 2011 BLAKE EVANS

By: \_\_\_\_\_

Date: May , 2011 VIC EVANS

By: \_\_\_\_\_


**APPROVED AS TO CONTENT AND FORM:**

Date: ~~May~~ <sup>June</sup> 20, 2011 LEWIS, FEINBERG, LEE, RENAHER & JACKSON, P.C.  
KENDALL DREWYOR LAW FIRM

By:   
TERESA S. RENAHER

Attorneys for Plaintiffs and the Class

Date: ~~May~~ <sup>July 5</sup> , 2011 MORGAN LEWIS & BOCKIUS

By:   
GREGORY C. BRADEN  
CHRISTOPHER WEALS

Attorneys for Defendants

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**CERTIFICATION OF NO OBJECTION**

US DEPARTMENT OF LABOR

By: Robert A. Goldberg

Name: Robert A. Goldberg

Title: Counsel for FRISA

Date: 7/7/11