

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

MATTHEW L. FORNSHELL,)	CASE NOS. 04-CV-548887
)	06-CV-592402
Plaintiff,)	
)	
-vs-)	JUDGE JOSE A. VILLANUEVA
)	
FIRSTMERIT BANK, N.A.,)	
)	
Defendant.)	
)	

ORDER OF FINAL JUDGMENT

WHEREAS, plaintiff Matthew L. Fornshell, Receiver (the "Receiver") and defendant FirstMerit Bank, N.A. ("FirstMerit") entered into a Settlement Agreement dated as of July 19, 2011 (the "Settlement") in connection with the above-captioned action (the "Receivership Action");

WHEREAS, notice of the Settlement was mailed to all Investors (as defined in Paragraph C of the Settlement Agreement) on July 21, 2011;

WHEREAS, on July 20, 2011, the Receiver and FirstMerit filed a motion (the "Motion") seeking a determination that the Settlement is fair and reasonable, and should be approved; and

WHEREAS, in addition to the Receivership Action, there is an action pending in the Court of Common Pleas, Cuyahoga County, Ohio, captioned *Young, et al. v. FirstMerit Bank N.A.*, Case No. 591332 (the "Young Action"), in which fourteen Investors seek to assert claims against FirstMerit (Those fourteen Investors – Katherine Young, James Cramer, Sherry Cramer, Louis Mate, Karen Barton, Jack Barton, Betty Kordos, Dan Milchak, James Noble, Ralph Eagle Eye, Guy Krueger, John Strouhal, Michael Pacak, and Denise Pacak – are referred to herein as the "Young Plaintiffs"); and

WHEREAS, due and proper notice of the Motion and this hearing having been given to all interested persons, and the Court having considered the papers filed by the Receiver in support of the Motion, and all objections to the Motion, and such other and further evidence and argument as were presented at the hearing held in connection with the Motion on August 15, 2011,

NOW, THEREFORE, THE COURT HEREBY **FINDS AND CONCLUDES** that:

1. This Court has jurisdiction over the subject matter of this action as well as over all parties represented in this action, including the Investors.
2. Having reviewed the Notice of Proposed Settlement of Action and Hearing thereon ("Notice of Settlement Hearing"), this Court hereby finds that the form, content, and method of dissemination of the Notice of Settlement Hearing was adequate and reasonable. The Court further finds that the procedures and schedule set forth in the Notice of Settlement Hearing for Investors to object to or comment on the subject of the Settlement are adequate and reasonable.
3. The Notice of Settlement Hearing satisfied the requirements of due process and constituted due and sufficient notice of the matters set forth therein.
4. The Settlement set forth in the Settlement Agreement is fair and reasonable.
5. The Receiver and its counsel have fairly and adequately represented the interests of the Receivership and the Investors (pursuant to this Court's May 23, 2006 Supplemental Order) in connection with the Settlement.
6. The Receiver and all Investors, except for those Investors set forth in subparagraphs (a) and (b), are hereby bound by the terms of the Settlement set forth in the Settlement Agreement:
 - (a) any Investor who has declined to participate in this settlement by

(i) lodging with the Court and counsel for the Parties an objection to the Settlement in accordance with the procedures set forth in the Notice of Settlement Hearing, which objection is not withdrawn prior to the entry of this Order, or (ii) appealing this Order (such Investor hereinafter referred to as a “Non-Participating Investor”);

(b) any Young Plaintiff who has not affirmatively elected to participate in the Settlement pursuant to Paragraph 11 of the Settlement Agreement.

7. There are no known Investors who properly lodged an objection to the Settlement in accordance with the procedures set forth in the Notice of Settlement Hearing, and whose objection has not been withdrawn as of the date hereof. Additionally, all Young Plaintiffs have affirmatively elected to participate in the Settlement pursuant to Paragraph 11 of the Settlement Agreement as of the date of the hearing.

8. For purposes of this Order, the term “FirstMerit” refers to defendant FirstMerit Bank, N.A., and its direct or indirect subsidiaries, parents and other affiliates, and its respective past and present employees, officers, directors, successor and predecessor entities, and attorneys, and each of them.

9. For purposes of this Order, the term “Receivership Defendants” refers to Joanne C. Schneider, Alan C. Schneider, Claire’s Folly, Inc., Claire’s Folly II, Inc., Claire’s Grand River Winery, Inc., Claire’s Winery, Old Mill Winery, Inc., Schneider management Co., Pearl Development Company, LLC, Garnet Development Company, LLC, Ruby Development Company, LLC, Faith One, Ltd., Faith Foundation of Cleveland and Pure Spirit Productions, Inc. and any affiliates, and their respective past and present employees, officers, directors, successor and predecessor entities, and attorneys, and each of them.

10. For purposes of this Order, the term “Receiver” refers to Matthew L. Fornshell, in his capacity as Receiver.

11. For purposes of this Order, the term "Investors" refers all persons listed on Exhibit A to the Receiver's Revised Proposed Schedules of Allowed Unsecured Claims of Investors, filed herein on or about June 30, 2008.

12. For purposes of this Order, the term "Barred Parties" refers to:

- A. all parties, other than FirstMerit, and other than the Receiver and the Receivership Defendants in the Receivership Action;
- B. all Investors;
- C. the Division, as that term is defined in the Findings and Order of Distribution entered in the Receivership Action on December 21, 2007 ("Findings and Order of Distribution"); and
- D. any other person or entity that directly or through his/her/its counsel has been served with notice of the hearing on the Motion.

Notwithstanding the foregoing, the term "Barred Parties" does not include:

- (a) any Non-Participating Investor; or
- (b) any Young Plaintiff who has not affirmatively elected to participate in the Settlement pursuant to Paragraph 11 of the Settlement Agreement.

13. The provisions of the Settlement Agreement, including definitions of the terms used therein and to the extent not defined in this Order, are hereby incorporated by reference as though fully set forth herein.

NOW, THEREFORE, IT IS HEREBY **ORDERED AND ADJUDGED** that:

14. The Settlement set forth in the Settlement Agreement is fair and reasonable, and the Parties shall consummate the Settlement Agreement in accordance with its terms and provisions.

15. Judgment shall be, and hereby is, entered dismissing with prejudice all claims

that were or could have been asserted against FirstMerit in the Receivership Action, on the merits, and without taxation of costs in favor of or against any party.

16. FirstMerit is hereby conclusively deemed to have forever released and covenanted not to sue any Investor eligible to receive a distribution from the Settlement Payment, the Receiver in his capacity as Receiver or the Receivership Defendants, and all of their direct or indirect subsidiaries, parents and other affiliates, all general and limited partners and investors, and their respective past and present creditors, claimants, investors, employees, officers, directors, and attorneys, whether in a representative or individual capacity, from all manner of actions, causes of action, suits, debts, dues, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages and expenses (including attorneys' fees and costs) of any nature whatsoever, in law or equity, that FirstMerit had, now has, or may in the future have, known or unknown, that are based upon, arise from, or related in any way to the claims or allegations in the Receivership Action. Such release and covenant not to sue does not extend to claims against any Investor relating to a debtor-creditor relationship between FirstMerit and that Investor that exists independent of the Receivership Action.

17. The Receiver in his capacity as Receiver, the Receivership Defendants, and the Receiver pursuant to the authority granted to him to pursue the interests of the Investors, on their own behalf and on behalf of all of their direct or indirect subsidiaries, parents and other affiliates, all general and limited partners, and their respective past and present creditors, claimants, investors, employees, officers, directors, successor and predecessor entities, and attorneys, whether in a representative or individual capacity, jointly and severally, are hereby deemed to have forever released and covenanted not to sue FirstMerit from all manner of actions, causes of action, suits, debts, dues, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages and expenses (including attorneys' fees and

costs) of any nature whatsoever, in law or equity, that they have had, now have, or may in the future have, known or unknown, that are based upon, arise from, or related in any way to the claims or allegations in the Receivership Action.

18. Each Investor who receives any portion of the Settlement Payment or who negotiates or endorses any instrument representing payment of any portion of the Settlement Payment on their own behalf and on behalf of all of their direct or indirect subsidiaries, parents and other affiliates, all general and limited partners, and their respective past and present creditors, claimants, investors, employees, officers, directors, successor and predecessor entities, and attorneys, whether in a representative or individual capacity, jointly and severally, are hereby deemed to have forever released and covenanted not to sue FirstMerit from all manner of actions, causes of action, suits, debts, dues, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages and expenses (including attorneys' fees and costs) of any nature whatsoever, in law or equity, that they have had, now have, or may in the future have, known or unknown, that are based upon, arise from, or related in any way to the claims or allegations in the Receivership Action.

19. Each of the Barred Parties is hereby permanently barred, enjoined and restrained from commencing, prosecuting, or asserting any claim against FirstMerit arising out of or relating in any way to the claims or allegations in the Receivership Action. Any Barred Party who violates this injunction shall pay the costs and attorneys' fees incurred by any of the Parties as a result of a violation of the Court's injunction.

20. FirstMerit on the one hand, and the Receiver and the Receivership Defendants on the other hand, are hereby permanently barred, enjoined and restrained from commencing, prosecuting, or asserting any claim against one another arising out of or relating in any way to the claims or allegations in the Receivership Action.

21. Neither the Settlement, nor any of the Settlement Agreement's terms or provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

- A. construed as or deemed in any judicial, administrative, arbitration or other type of proceeding to be evidence of a presumption, concession, or an admission by FirstMerit of any liability or wrongdoing or the truth of any fact alleged or the validity of any claim that has been, could have been, or in the future might be asserted against FirstMerit;
- B. construed as a concession or an admission by FirstMerit that any person or entity has suffered any damage.

22. The Court shall have and retain jurisdiction for all matters related to the administration, interpretation, effectuation, or enforcement of this Order, the Settlement Agreement between and among FirstMerit and the Receiver and any related disputes.

23. There is no just reason for delay in the entry of final judgment, and the Court hereby directs the clerk to enter judgment as to FirstMerit pursuant to Rule 54(b) of the Rules of Civil Procedure.

24. In the event that this judgment does not become "Final" in accordance with paragraph 6 of the Settlement Agreement, then the judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement, and this Order of Final Judgment shall be vacated. In such event, all orders entered in connection with the Settlement shall be null and void. In such event, this action shall return to its status prior to execution of the Settlement Agreement.

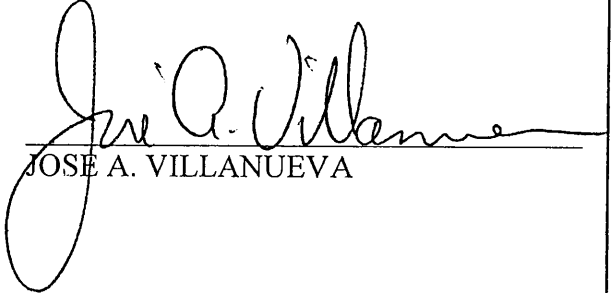
25. The clerk shall promptly serve copies of this Order upon all parties to this action.

26. The Receiver shall promptly serve all other persons whom he believes may be

subject to any provision of this Order, and shall, within thirty (30) calendar days from the date of entry of this Order, submit to this Court an affidavit identifying the name, address, date of service, and manner of service of each such Person he served with a copy of this Order in compliance with this provision.

IT IS SO ORDERED.

Dated: August 16, 2011


JOSE A. VILLANUEVA

RECEIVED FOR FILING

AUG 16 2011

GERALD E. FUERST, CLERK
By wardrop Deputy