



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Evans Bancorp, Inc., Evans Bank, N.A (collectively, “Evans”) and on behalf of the People of the State of New York by Eric T. Schneiderman, Attorney General (“AG”).

WHEREAS, Evans and the AG are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties”;

WHEREAS, Evans is a federally regulated bank and is subject to state and federal laws governing fair lending, including the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and Chapter 154 of the Buffalo City Code, § 154-1 *et seq.*

WHEREAS, in *People of the State of New York v. Evans Bancorp, Inc.*, Civil Action No. 1:14-cv-00726 (W.D.N.Y.), the AG has alleged that Evans has engaged in conduct prohibited by these laws, including not making residential mortgages available to individuals living on the East Side of the City of Buffalo and parts of Cheektowaga (“AG Complaint Area”).

WHEREAS, without admission of liability or responsibility by Evans, the Parties desire to resolve litigation commenced by the AG against Evans in *People of the State of New York v. Evans Bancorp, Inc.*

WHEREAS, the Parties desire that this Agreement have binding effect on and inure to the benefit of Evans and the AG, each of them, and their successors and assigns, provided that no Party may assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement without prior written consent of the other Party.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Compliance with Lending Laws:** Evans agrees to comply fully with the obligations and conditions of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, the New York State Human Rights Law, N.Y. Exec. L. § 290 *et seq.*, and Chapter 154 of the Buffalo City Code, § 154-1 *et seq.*

2. **Lending Policy:** Evans agrees to revise its Commercial and Consumer Loan Policy, and any other applicable policies or summaries of policies, to: (a) specifically reflect a Trade Area that includes the entire AG Complaint Area; and (b) eliminate any minimum dollar requirement for mortgages contained therein. Any necessary training of Evans employees regarding such revisions shall be provided in accordance with Paragraph 9 of this Agreement.

3. **Special Financing Program:**

a. Evans will adopt a Special Financing Program over a maximum of three (3) years to be implemented in the AG Complaint Area. As part of the Special Financing Program, Evans agrees to provide One Hundred Thousand Dollars (\$100,000.00), over a three (3) year period in discounted fees, home improvement grants, and subsidized financing on loans to current or prospective residents in the AG Complaint Area. The money allocated to the Special Financial Program can be used for down payments on residential home purchases; home improvement grants; closing costs assistance, waiver of fees, waiver of interest, or an interest rate subsidy for mortgages to purchase a home; refinanced residential loans including home improvement loans; or waiver of fees, waiver of interest, or an interest rate subsidy on small business loans. Evans will employ flexible underwriting standards in connection with the Special Financing Program,

consistent with Office of the Controller of Currency (“OCC”) regulations and other applicable laws.

b. To fulfill its obligations under the Special Financing Program, in addition to its conventional products already offered, Evans intends to offer new loan products and services to individuals seeking to purchase, refinance, or renovate a home within the AG Complaint Area. Evans will commence the Special Financing Program no later than ninety (90) days after the date of this Agreement.

c. In the event that the funds in the Special Financing Program are not fully expended during the term of this Agreement, any funds remaining in the Special Financing Program shall be paid in a grant to the City of Buffalo to be used in accordance with Paragraph 8 of this Agreement. Any such grant shall be paid in full by Evans no later than three (3) years and ninety (90) days after the date of this Agreement. In the event that the funds in the Special Financing Program are fully expended before three (3) years has elapsed, all of Evans’s obligations under this Paragraph shall terminate. Evans shall provide written notice within ten (10) days to the AG in the event that any circumstances set forth in this sub-paragraph occur.

4. **Marketing:** Evans will invest Two Hundred Thousand Dollars (\$200,000.00) in advertising and marketing designed to reach potential applicants and residents of the AG Complaint Area. Marketing efforts to be undertaken by Evans shall be performed over a two (2) year period and shall include print advertising, radio promotions, direct mail, internet advertising, and the dissemination of promotional materials detailing a full range of products provided or made available by Evans. Marketing efforts shall include, but may not be limited to, efforts focusing on the AG Complaint Area and promotions of affordable loan products and any products or services created pursuant to this Agreement. All of Evans’ advertisements shall

include the statement “Equal Housing Lender.” Evans shall make substantial good faith efforts to ensure that persons appearing on Evans’s marketing materials are of diverse racial backgrounds. Evans will commence its marketing efforts under this paragraph no later than ninety (90) days after the date of this Agreement. Upon request, and within a reasonable time, Evans will provide the AG with copies of marketing materials.

5. **Monetary Relief:** Evans will pay the Office of the New York State Attorney General a total of Fifty Thousand Dollars (\$50,000.00) for costs and fees. Payment will be made to the New York State Department of Law within thirty (30) days of the date of this Agreement by wire or certified or bank check.

6. **Compliance Audit:** To facilitate a periodic audit of compliance with the terms of this Agreement, Evans will provide to the Attorney General’s Office, for a period of two (2) years, on an annual basis, the data which is submitted to the Federal Financial Institution Examination Council (“FFIEC”) pursuant to the Community Reinvestment Act (“CRA”) and Home Mortgage Disclosure Act. This data shall be provided in the same format in which it is presented to the FFIEC within thirty (30) days of its submission to FFIEC. In addition to the above referenced submission, Evans shall also on an annual basis, for a period of two (2) years, provide to the Attorney General a report regarding Evans’ progress in executing the specific terms of this Agreement. This annual report will describe compliance by Evans in regard to Paragraphs 3, 4, and 8 of this Agreement. Evans shall provide to the Attorney General an additional report describing compliance with Paragraph 3 of this Agreement within thirty (30) days of the date on which the funds in the Special Financing Program are fully expended. During the term of the Agreement, Evans shall retain all records relating to their obligations

under this Agreement, including lending activities, marketing, training, special programs, and other activities as set forth herein.

7. **Trade Area:** The Trade Area is the geographic area wherein Evans conducts business. As part of this Settlement Agreement, Evans states that its formal Trade Area includes the entire AG Complaint Area.

8. **Housing Opportunity Fund:** Evans will provide a grant to the City of Buffalo's Office of Strategic Planning that will support activities including, but not limited to, home ownership, counseling, financial education, and asset building workshops for home buyers, as well as the restoration and development of affordable housing throughout Buffalo, including but not limited to the East Side of Buffalo (the "Housing Opportunity Fund"). The amount of the Housing Opportunity Fund shall be Four Hundred and Seventy-Five Thousand Dollars (\$475,000.00). No later than sixty (60) days after the date of this Agreement, the Parties shall execute a separate Letter Agreement with the City of Buffalo setting forth the details of the Housing Opportunity Fund and providing for a reporting by the City of Buffalo to the Parties confirming the implementation and use of the fund. The grant comprising the Housing Opportunity Fund shall be made in two annual installments of Two Hundred Thirty-Seven Thousand, Five Hundred Dollars (\$237,500.00), the first being made fourteen (14) days after the execution of the Letter Agreement provided for in this paragraph and the second being made one year after the date of the first payment.

9. **Training:** Evans also agrees to provide training to all employees and agents with significant involvement in lending operations to ensure that their activities are conducted in a non-discriminatory manner. The training provided shall encompass fair lending obligations under the Fair Housing Act, Equal Credit Opportunity Act, New York State Human Rights Law,

and Buffalo City Code. A summary of Evans's obligations under this Agreement will be provided to all Evans employees attending the training. The training will be supervised by Evans's CRA Officer and CRA Mortgage Loan Officer. The training shall be provided once a year for a period of two (2) years. The initial training session will be completed within four (4) months of the date of this Agreement, subject to any extension of time necessitated by the Parties' good faith discussion of the details of the training. The materials for the training to be implemented pursuant to this paragraph shall be subject to review and approval by the AG, which shall not be unreasonably withheld.

10. **Discontinuance of Litigation:** Within five (5) business days of the execution of this Agreement the AG shall discontinue litigation commenced in Federal District Court, against Evans in *People of the State of New York v. Evans Bancorp, Inc.*, Civil Action No. 1:14-cv-00726 (W.D.N.Y.) with prejudice by filing a Joint Stipulation of Discontinuance Pursuant to Settlement Agreement, the contents of which must be agreed to by both Parties ("Stipulation"). The terms of this Agreement will become immediately enforceable upon the filing of the Stipulation and shall expire two (2) years from the date of the filing of the Stipulation, except with respect to Paragraph 3 (Special Financing Program), which shall expire three (3) years and one hundred and twenty (120) days from the date of the filing of the Stipulation, unless the Special Financing Program funds are fully expended at an earlier date in accordance with paragraph 3(c).

11. **Third Parties:** This Agreement is not to be used by any third party in any civil, criminal, administrative, or regulatory proceeding or examination of any kind before any court, administrative agency, regulatory body, or other tribunal. Except in an action by the AG to enforce the obligations of Evans in this Agreement, this Agreement is not intended to be used as

an admission of, or evidence of, any alleged wrongdoing, liability, fault, or omission of Evans in any civil, criminal, administrative, or regulatory proceeding or examination of any kind before any court, administrative agency, regulatory body, or other tribunal.

12. **Construction and Dispute Resolution:**

a. This Agreement is entered into in the State of New York and shall be construed and interpreted in accordance with its laws, without regard to its conflict of laws principles. The courts of the State of New York shall have exclusive jurisdiction over all matters pertaining or relating to any disputes that may arise over the performance, interpretation, or enforcement of any provision of this Agreement. The parties shall make good faith efforts to resolve any disputes prior to seeking relief from a court.

b. The Parties shall cooperate in good faith as needed to implement the Special Financing Program as set forth in Paragraph 3, and the marketing efforts as outlined in Paragraph 4. Evans has provided to the AG certain information concerning the implementation of these terms of the Agreement, and this information has been reviewed and approved by the AG. If Evans should seek to alter the manner in which it complies with these terms of the Agreement, it shall provide written notice of any changes to be implemented to the AG's Office. Any such changes shall be subject to review and approval by the AG for the purpose of determining whether they comply with this Agreement and applicable laws. The AG's approval shall not be unreasonably withheld.

13. **Attorney's Fees:** If a court of competent jurisdiction determines that Evans has breached this Agreement, Evans shall pay to the AG the cost, if any, of such determination and of enforcing this Agreement, including without limitation legal fees, expenses, and court costs.

However, except as provided in this Paragraph and Paragraph 5 herein, each Party is otherwise responsible for all attorney fees associated with this Agreement or the underlying litigation.

14. **Entire Agreement:** The Parties agree and acknowledge that this Agreement constitutes the entire agreement among the Parties regarding the settlement of the matters specified herein and that this Agreement shall not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a duly executed writing by all of the Parties.

15. **Authority:** The Parties represent and warrant, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement is duly authorized.

16. **Headings:** The headings contained in the Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

17. **Counterparts:** The Parties agree that this Agreement may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement by facsimile transmission (including the delivery of documents in Adobe PDF format) shall constitute execution and delivery of this Agreement for all purposes, with the same force and effect as execution and delivery of an original manually signed copy hereof.

IN WITNESS, WHEREOF, the Parties hereto have executed this Settlement Agreement
on and as of the date set forth below.

Dated: September 10, 2015
New York, New York

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Plaintiff

By:



Mayur Saxena
Assistant Attorney General
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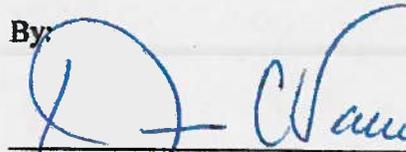
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