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14
15 **UNITED STATES DISTRICT COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 **SECURITIES AND EXCHANGE**
18 **COMMISSION,**

19 Plaintiff,

20 v.

21 **MICHAEL W. PERRY and A.**
22 **SCOTT KEYS,**

23 Defendants.

Case No. CV-11-1309 R

**DECLARATION OF
MICHAEL W. PERRY IN
SUPPORT OF HIS MOTION
FOR PARTIAL SUMMARY
JUDGMENT PURSUANT TO
RULE 56 OF THE FEDERAL
RULES OF CIVIL
PROCEDURE**

Date: May 21, 2012

Time: 10:00 a.m.

Courtroom: No. 8

Judge: Honorable Manuel L. Real

1 Michael W. Perry deposes and says as follows:

2 1. I am a resident of San Marino, California. I have personal knowledge
3 of the facts set forth in this declaration.

4 2. On March 23, 2007, I acquired 35,000 shares of Bancorp common
5 stock at a cost of more than \$1.03 million.

6 3. On February 15, 2008, I acquired 328,987.99 shares of Bancorp
7 common stock at a cost of more than \$2.6 million.

8 4. I did not sell a single share of Bancorp common stock in 2006, 2007,
9 or 2008.

10 5. To my knowledge, no Bancorp executive officer or director sold
11 Bancorp shares in 2008, through the date Bancorp filed for bankruptcy.

12 6. I beneficially owned more than 3.1 million shares of Bancorp
13 common stock (including stock options) on February 29, 2008, comprising about
14 3.9 percent of issued and outstanding shares. To the best of my knowledge, I was
15 the largest non-institutional Bancorp shareholder at the time.

16 7. As of December 31, 2006, the Bancorp common stock and options I
17 beneficially owned had a value of more than \$69 million. My investment in
18 Bancorp constituted the vast majority of my net worth. By February 29, 2008, the
19 value of my investment in Bancorp shares (including the additional stock and
20 options acquired in 2007 and 2008) had plummeted to less than \$4 million. As a
21 result of Bancorp's bankruptcy filing on July 31, 2008, I lost virtually the entire
22 remainder of my investment in the company.

23 8. In Bancorp's March 2008 proxy statement, I told shareholders that if
24 they were unhappy with my or the company's performance, they could vote
25 against my re-election as a director and that, if not reelected, I would both resign
26 as CEO of Bancorp and voluntarily forfeit my contractual right to a multi-million
27

1 dollar severance package. I was overwhelmingly reelected as a director with over
2 97% of the votes cast, and thus did not tender my resignation as CEO.

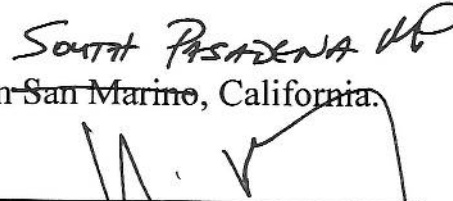
3 9. In 2008, Bancorp's Management Development and Compensation
4 Committee awarded discretionary bonuses to the company's senior managers in
5 order to retain and motivate them. I did not participate in this plan and received
6 zero bonus for services provided to Bancorp in 2007 or 2008.

7 10. In April 2008, I voluntarily cancelled my fully vested options to
8 purchase one million shares of Bancorp common stock in order to make more
9 stock options available for the company's shareholders and for the retention of its
10 employees.

11 11. On or about July 11, 2008, the day Indymac Bank was taken over by
12 federal regulators, I received the attached letter from Mr. Lyle Gramley, a long-
13 time Bancorp independent director, former member of the Board of Governors of
14 the Federal Reserve, and former Chief Economist of the Mortgage Bankers'
15 Association of America. Mr. Gramley states in his letter that "There isn't a
16 businessman in my acquaintance for whom I have more respect than I have for
17 you. Your conduct through this difficult period—the enormous effort you have
18 put in to try to save the company, the selflessness with which you approached the
19 task, the integrity you demonstrated every step of the way—are a model for all of
20 us." I believe this excerpted statement accurately summarizes my actions and
21 leadership of Bancorp during the financial crisis of 2007 and 2008.

22 Pursuant to 28 U.S.C. § 1746 and under penalty of perjury under the laws of
23 the United States of America, I affirm that the foregoing facts are true and correct
24 to the best of my knowledge and belief.

25 Executed this 6th day of April 2012 in ~~San Marino~~, California.

26
27 
28 _____
Michael W. Perry