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Former IndyMac CEO Resolves Remaining Claim in SEC Case

WASHINGTON, DC, October 1, 2012 -- Former IndyMac CEO, Michael W. Perry, has agreed to settle the last remaining claim against him in the once wide-ranging civil fraud case brought by the U.S. Securities and Exchange Commission that involved IndyMac's public disclosures during a 90-day period in 2008.

Without admitting or denying the allegations, Mr. Perry agreed to settle a single negligence-based claim, pay $80,000, and comply with the securities laws going forward. The SEC, in turn, agreed to accept the court's prior rulings, which threw out the remainder of their case, and to forego any appeals. The settlement was approved by the court.

The settlement comes on the heels of two court rulings by U.S. District Judge Manuel L. Real in Los Angeles that gutted the SEC's case against Mr. Perry and left only the single claim that was settled today. Judge Real previously dismissed the SEC's numerous other claims, finding that they failed as a matter of law.

In settling the case, Mr. Perry is prohibited from commenting on the merits of the SEC's allegations. However, D. Jean Veta, a Covington partner who leads Mr. Perry's defense stated: "I think the court's rulings speak for themselves. The court ruled in Mr. Perry's favor on every claim that was presented to it. Despite significant reluctance, Mr. Perry had long tried to resolve this case on reasonable terms. It just so happens that we needed to score some victories before the SEC was of a similar mind."

"Mr. Perry is settling this single negligence-based claim, and is pleased to put the matter behind him," said Ms. Veta. "No one could have done more than Mike Perry to keep IndyMac Bank safe and sound during the worst financial crisis since the Great Depression," Ms. Veta added.

Background:

Last May, the court tossed out the SEC's claims relating to five of the seven securities filings at issue, finding that IndyMac had adequately disclosed its capital raising efforts, had no duty to disclose an internal forecast from February 2008, and had properly disclosed a decision to suspend dividends on certain trust-preferred securities. In that

same ruling, the court found that Mr. Perry received no ill-gotten gains from IndyMac; that he did not sell a single share of IndyMac stock for years; that Mr. Perry instead bought $3.6 million in IndyMac stock in 2007 and 2008, including $2.6 million during the period the SEC complained about; and that, as IndyMac's largest non-institutional shareholder, he lost virtually all of his $69 million investment when IndyMac failed.

The second court ruling, which was issued in September 2012, again was in favor of Mr. Perry. In that ruling, the court found that IndyMac's public disclosures about its capital ratios were accurate and that IndyMac had no duty to disclose details about a separate supplemental ratio that it had reported to its bank regulator, the Office of Thrift Supervision.

As a result of the court's rulings, the sole remaining issue, which was addressed in the settlement, was whether IndyMac's May 12, 2008 securities filings should have disclosed additional details about an $18 million capital contribution to IndyMac Bank.

With the settlement of the SEC's case, Mr. Perry has resolved almost all of the cases against him and is looking forward to having all of this litigation behind him. "In all the cases that were filed, there has never been a single adverse ruling on the merits against Mr. Perry," said Ms. Veta. "Mike Perry was a smart, dedicated, and conscientious CEO," she added. "But not even Mike Perry could overcome the tsunami that upended the financial industry in 2007 and 2008."

The Covington team representing Mr. Perry includes D. Jean Veta, Benjamin Razi and Dennis Auerbach.

Covington & Burling LLP, an international law firm, provides corporate, litigation, and regulatory expertise to enable clients to achieve their goals. Founded in 1919, the firm has more than 800 lawyers and offices in Beijing, Brussels, London, New York, San Diego, San Francisco, Silicon Valley, and Washington, DC.