

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE

(b)(2) [redacted] ("Settlement Agreement") is entered into and made effective as of the _____ day of October, 2008 ("Effective Date"), by and between plaintiff Federal Deposit Insurance Corporation, as conservator for IndyMac Federal Bank, FSB formerly known as IndyMac Bank, FSB ("IndyMac"), defendant Angelino Mortgage Co., Inc.; a California Corporation and defendant John Robert Lim (hereinafter collectively "Angelino Mortgage"). (IndyMac, Angelino Mortgage and John Robert Lim may hereinafter be referred to individually as a "Party" or collectively as the "Parties").

1. RECITALS

1.1 On or about May 18, 2006, Angelino Mortgage and IndyMac entered into a written Customer Agreement and e-mits User Agreement (hereinafter "Agreement") and incorporated Lending Guide ("Guide").

(b)(6) [redacted]
(b)(6) [redacted]
(b)(6) [redacted]
(b)(6) [redacted]
1.2 Pursuant to the Agreement, on or about October 4, 2006, Angelino Mortgage processed, packaged and submitted two loans concerning borrower [redacted] (b)(6) (loan nos. [redacted] and [redacted]) to IndyMac. The loans were secured by property located at [redacted] Murrieta, California. The principal amounts of the loans were \$159,800 and \$639,200.

1.3 IndyMac claims that Angelino Mortgage breached certain representations and warranties contained in the Agreement and Guide and negligently processed the Rodriguez loans.

1.4 IndyMac demanded Angelino Mortgage repurchase the Rodriguez loans and/or indemnify IndyMac for its losses.

1.5 Angelino Mortgage disputes IndyMac's claims relating to the Rodriguez loans and refused to repurchase the loans and/or indemnify IndyMac for its losses.

1.6 On or about October 3, 2007, IndyMac filed a lawsuit entitled *IndyMac Bank, F.S.B., as successor-in-interest to IndyMac, Inc. vs. Angelino Mortgage Co., Inc.; a California corporation; John Robert Lim, an individual*, Case No. BC 378 602 (hereinafter "Action"). Angelino Mortgage filed a general denial.

1.7 The Parties desire and have agreed to settle all claims relating to the Rodriguez loans in their entirety upon the terms and conditions hereinafter set forth.

2. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

2.1 **Recitals.** The Recitals set forth above are incorporated into the body of this Settlement Agreement as though fully set forth herein.

2.2 **Payment to IndyMac.** Angelino Mortgage shall pay to IndyMac the total sum of One Hundred Ten Thousand Dollars and No/100 (\$110,000.00). The sum of Eighty Five Thousand Dollars and No/100 (\$85,000.00) shall be paid within 10 business days of Angelino Mortgage's counsel's receipt of a fully executed copy of the Settlement Agreement. The settlement payments shall be made payable by check payable to IndyMac Federal Bank, FSB and transmitted to IndyMac c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31st Floor, Los Angeles, CA 90071-2901.

2.3 The remaining Twenty Five Thousand Dollars (\$25,000.00) shall be paid as follows: \$1,000 per month commencing November 1, 2008 and continuing on the first of each month until paid in full. The monthly payments shall be made by check payable to IndyMac Federal Bank, FSB and transmitted to IndyMac c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31st Floor, Los Angeles, CA 90071-2901.

2.4 Concurrently with the signing and delivery of this Settlement Agreement, John Robert Lim shall execute a Stipulation for Entry of Judgment in the amount of \$35,000.00 plus interest less any amounts received by IndyMac, in the form attached hereto as Exhibit 1. The Stipulation for Entry of Judgment incorporates by reference the Judgment (Pursuant to Stipulation), attached to the Stipulation as Exhibit A. Both the Stipulation and Judgment are incorporated by reference herein and their terms made a part of this Settlement Agreement. The Stipulation shall be entered immediately upon execution of this Settlement Agreement. The Judgment (Pursuant to Stipulation) shall not be entered so long as Angelino Mortgage performs under the terms of this Settlement Agreement as set forth in paragraphs 2.2-2.3 above.

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2.5 In the event Angelino Mortgage defaults by failing to make a timely payment to IndyMac as set forth in paragraphs 2.2 - 2.3 above, IndyMac shall give written notice via mail or facsimile of the default and notice of intent to enter Judgment (Pursuant to Stipulation) to Angelino Mortgage at: 77 E. Kensington Rd., L.A. 90026 and Carlson Law Group, Inc. at 6345 Balboa Boulevard, Suite 257, Encino, CA 91316, Telephone [redacted] Facsimile: [redacted]

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SETTLEMENT AGREEMENT & MUTUAL RELEASE

Page 2 of 8

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2.6 Angelino Mortgage shall have five (5) business days from receipt of the notice of intent to enter Judgment to cure the default. If Angelino Mortgage fails to cure the default within five (5) business days, IndyMac shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) and enforce said Judgment against Angelino Mortgage less any consideration already received by IndyMac pursuant to the settlement. Judgment may be entered by ex parte application (without testimony or trial and Angelino Mortgage further waives the right to a court and/or jury trial) with written notice given to Angelino Mortgage and Carlson Law Group, Inc. by facsimile or telephonic notice given at the facsimile and phone number listed above. The amount actually received by IndyMac shall be deducted from the amount of the Judgment (Pursuant to Stipulation).

2.7 Within 10 business days of IndyMac's counsel's receipt of the fully executed Settlement Agreement and the entered Stipulation for Entry of Judgment, IndyMac's counsel shall file a request for dismissal with prejudice.

2.8 Each party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and the court shall retain jurisdiction over the parties to enforce this Settlement Agreement and the Judgment (Pursuant to Stipulation). The parties hereto request the Court to retain jurisdiction pursuant to C.C.P. § 664.6 to enforce the terms of this Settlement Agreement should a dispute arise.

2.9 The parties shall bear their own costs and attorneys' fees.

3. RELEASE

3.1 **Unknown Claims.** Each Party acknowledges and agrees that the release they give to the other Party upon executing this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which that Party may have against the other Party arising from or in conjunction with the Rodriguez loans, and each Party hereby expressly waives application of any applicable state statute, including but not limited to *California Civil Code §1542*.

3.2 Each Party certifies that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

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3.3 Each Party understands and acknowledges that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with the Rodriguez loans or any facts or circumstances related to the Rodriguez loans, that Party will not be able to make any claim for those damages. Furthermore, each acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

3.4 Except for the rights, duties, and obligations set forth in this Settlement Agreement and Stipulation for Entry of Judgment, the Parties each hereby fully, finally, and forever release and discharge the other Party, and any and all of its respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, agents, investors, successors, assigns, representatives, officers, directors, shareholders, agents, independent contractors, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the Rodriguez loans. The Parties further acknowledge and agree that neither Party will take any action or assert any claims or demands against the other Party with any federal, state, municipal, or other governmental agency or court relating to the Rodriguez loans.

3.5 Conditions of Execution. Each Party acknowledges and warrants that its execution of this Settlement Agreement is free and voluntary.

3.6 Confidentiality. The Parties agree that neither they nor anyone acting on their behalf, including their respective attorneys, will disclose to anyone any information relating to, in any way, the contents or terms of this Settlement Agreement, or any matters pertaining to this settlement, including its negotiation, unless such disclosure is: (1) lawfully required by any governmental agency; (2) otherwise required by law (including legally required financial reporting or other disclosures); or (3) necessary in any legal proceeding to enforce any provision of this Settlement Agreement. The Parties may disclose the terms of this Settlement Agreement to their respective auditors,

accountants, tax advisors, and legal counsel, but only to the extent required for professional advice from those sources and only after securing a commitment from those professionals to maintain the confidentiality of this Settlement Agreement, as required above, to the greatest extent possible considering the purpose for which the terms of the Settlement Agreement are needed by those professionals.

3.7 No Admission. It is agreed that no Party hereto admits liability or wrongdoing of any nature, and that this Settlement Agreement is made as a compromise of disputed claims.

3.8 Fair Meaning. The Parties hereto further agree that the language of all parts of this Settlement Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties.

3.9 Governing Law. The Parties agree to submit to the Courts of the City and County of Los Angeles, California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

3.10 Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

3.11 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

3.12 Binding Effect. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors, and assigns.

3.13 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understanding the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and has conducted such inquiry as they deem necessary and advisable prior to entering into this Settlement Agreement. The Parties enter into this Settlement Agreement understanding that facts or other circumstances may exist which are presently

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unknown or undisclosed, or which are different from or other than those which they believe to be the case, and the Parties voluntarily assume all risks attendant to such unknown, undisclosed, different, or additional facts or other circumstances.

3.14 Approval, Authority, and Nonassignment. The Parties represent and warrant to one another that the approval of this Settlement Agreement has been undertaken in a proper and lawful manner and that they have the requisite power and authority to enter into and to perform their obligations under this Settlement Agreement, and further warrant and represent that they have not sold, assigned, granted or transferred to any other person, corporate or natural, or to any entity, any claim, action, demand, or cause of action released by this Settlement Agreement.

3.15 Number. Whenever applicable, the singular shall include the plural, and the plural shall include the singular.

3.16 Counterparts/Execution. This Settlement Agreement may be executed in one or more counterparts, all of which shall form a single agreement. A Party's signature on this Settlement Agreement by facsimile shall be valid and effective for all purposes as an original signature, provided, however, that the original signature shall be produced upon request.

3.17 Waiver. No term or condition of this Settlement Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Settlement Agreement, except by written instruments signed by the Party charged with the waiver or estoppel. No written waiver shall be deemed a continuing waiver unless specifically stated therein, and the written waiver shall operate only as to the specific term or condition waived, and not for the future or as to any other act than that specifically waived.

3.18 Headings. The headings of paragraphs herein are intended solely for the convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement.

3.19 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement, including such instruments as may be required by the laws of any jurisdiction, now in effect or hereinafter enacted, that may affect the rights of the Parties as between themselves or others with respect to their rights and obligations created by this Settlement Agreement.

3.20 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties and

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fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties pertaining to the Rodriguez loans. This Agreement shall not be modified except in a writing signed by the Parties or their authorized representatives.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have executed this Settlement Agreement as of the date set forth in the opening paragraph of this Settlement Agreement.

DATED: October __, 2008

CARLSON LAW GROUP, INC.

[Redacted signature box]

(b)(6)

By:

MARK C. CARLSON, ESQ.
JONATHAN A. FELDHEIM, ESQ.

Attorneys for Defendants,
Angelino Mortgage Co., Inc. and John Robert Lim

DATED: October 30, 2008

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[Redacted signature box]

By:

ANGELINO MORTGAGE, INC.

DATED: October 30, 2008

[Redacted signature box]

(b)(6)

By:

JOHN ROBERT LIM

[Redacted box]
(b)(6)

DATED: October __, 2008

ANDERSON, McPHARLIN & CONNERS LLP

(b)(6)

By:

VANESSA H. WIDENER, ESQ.

Attorneys for Plaintiff,
Federal Deposit Insurance Corporation, as conservator
for IndyMac Bank, FSB formerly known as IndyMac
Bank, FSB

DATED: October __, 2008

(b)(6)

By:

Federal Deposit Insurance Corporation as
conservator for IndyMac Federal Bank, FSB
formerly known as IndyMac Bank, F.S.B.