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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 5th day of March 2010 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC FEDERAL BANK, F.S.B. ("FDIC/INDYMAC"), INVESTORS REALTY & MORTGAGE ("INVESTORS REALTY") and MIRWAIS AZADZOY. FDIC/INDYMAC, INVESTOR'S REALTY and MIRWAIS AZADZOY may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

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1. RECITALS

1.1 FDIC/INDYMAC's predecessor, INDYMAC BANK, F.S.B. ("INDYMAC") and INVESTOR'S REALTY entered into a business relationship governed by a Customer Contract and e-MITS User Agreement (hereinafter "Agreement").

1.2 INVESTOR'S REALTY submitted to INDYMAC for funding the following six (6) loans identified by borrower name, loan number(s), principal amount(s) and address:

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(a) **ANSARI LOANS** - The loans to [redacted] in the principal amounts of \$360,000 and \$45,000, secured by real property located at [redacted] Fremont, California (Loan Nos. [redacted] and [redacted] and which were submitted to INDYMAC on or about December 8, 2005. (b)(6)

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(b) **CORTEZ LOAN** - The loan to [redacted] in the principal amount of \$203,000, secured by real property located at [redacted] Modesto, California (Loan No. [redacted]) and which was submitted to INDYMAC on or about January 23, 2006. (b)(6)

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(c) **DYSON LOAN** - The loan to [redacted] in the principal amount of \$560,000, secured by real property located at [redacted] Tracy, California (Loan No. [redacted]) and which was submitted to INDYMAC on or about August 16, 2005. (b)(6)

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(d) **SANDLES LOANS** - The loans to [redacted] in the principal amounts of \$352,000 and \$88,000, secured by real property located at [redacted] Henderson, Nevada (Loan Nos. [redacted]) and which was submitted to FDIC/INDYMAC on or about July 21, 2005. (b)(6)

1.3 The six (6) loans described in paragraph 1.2 above are collectively referred to herein as the "SUBJECT LOANS".

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1.4 FDIC/INDYMAC claims that the SUBJECT LOANS contained misrepresentations in breach of the representations and warranties in the Agreement.

1.5 INVESTOR'S REALTY and MIRWAIS AZADZOY dispute FDIC/INDYMAC's claims relating to the SUBJECT LOANS and reject all and any allegation made against them.

1.6 On or about October 15, 2007, INDYMAC filed a lawsuit entitled *INDYMAC BANK, F.S.B., as successor-in-interest to INDYMAC, INC. vs. MIRWAIS AZADZOY, an individual; MIRWAIS AZADZOY, d.b.a. INVESTORS REALTY & MORTGAGE; INVESTORS REALTY & MORTGAGE, a California entity, form unknown; ZARMINA AZADZOY, an individual; WASIL A. GUDUS, an individual; DOES 1 through 100, inclusive*, in the Los Angeles County Superior Court, Case No. BC379093 (hereinafter "Action") seeking damages arising out of the SUBJECT LOANS.

1.7 INDYMAC filed an Ex Parte application for a Writ of Attachment. The hearing on Writ of Attachment came on for hearing on November 29, 2007 before the Hon. Victor Greenberg. After reviewing the moving, opposing and reply papers, and hearing oral argument, the court granted INDYMAC's motion and issued a right to attach order.

1.8 The Parties subsequently entered into a stipulation to deposit the total sum of Six Hundred Sixty-Seven Thousand Two Hundred Forty One Dollars and 50/100 (\$667,241.50) into a blocked interest bearing account at Wells Fargo Bank, 4850 Barranca Parkway, Irvine, California 92604 and stipulated that said account at Wells Fargo Bank be frozen, with no withdrawals made from said account except pursuant to Court order.

1.9 Pursuant to the Parties' stipulation and Court order thereon entered January 29, 2008, said funds were deposited to Wells Fargo Bank account number 5560126772. As of February 28, 2010, the account balance was \$684,887.41.

1.10 The Parties desire and have agreed to settle all claims relating to the SUBJECT LOANS and the Action.

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 FDIC/INDYMAC. Payment of Two Hundred Five Thousand Dollars and no/cents (\$205,000.00) (the "Settlement Funds") shall be paid on behalf of INVESTOR'S REALTY to FDIC/INDYMAC. Pursuant to the Stipulation of the Parties and order of the Court thereon, the Settlement Funds shall be paid to FDIC/INDYMAC directly from the funds on deposit with Wells Fargo Bank, account number 5560126772 . The funds in Wells Fargo Bank account number 5560126772 in the sum of Two Hundred Five Thousand Dollars and no cents (\$205,000.00) shall be delivered by Wells Fargo Bank by certified funds to Anderson, McPharlin & Conners LLP Trust Account c/o Anderson, McPharlin & Conners, LLP at 444 S. Flower Street, 31st Floor, Los Angeles, California, 90071, Attn: Vanessa H. Widener. The remainder of the funds in Wells Fargo Bank account number 5560126772 shall be returned by Wells Fargo Bank to INVESTOR'S REALTY by certified funds made payable to MIRWAIS AZADZOY and Wasil Qudus c/o Law offices of Christopher K. Jafari, 1 Park Plaza, Suite 600, Irvine, CA 92614, Phone [REDACTED]

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2.3 Within five (5) business days of FDIC/INDYMAC's counsel 's receipt of the Settlement Funds, FDIC/INDYMAC shall file a request for dismissal of the Complaint with prejudice against all parties in this action except the Cross Complaint.

2.4 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 requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement.

2.5 The Parties shall bear their own costs and attorneys' fees incurred in the Action.

3. RELEASE

3.1 Unknown Claims. FDIC/INDYMAC and INVESTOR'S REALTY acknowledge and agree that the release they give to each other 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 they may have against each other arising from or in conjunction with the Action, the SUBJECT LOANS or arising from or in conjunction with any loans submitted by INVESTOR'S REALTY to INDYMAC pursuant to the Agreement.

3.2 The Parties hereby expressly waive application of *California Civil Code §1542*. The Parties certify that they have read and understand 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.

3.3 The Parties understand and acknowledge 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 Action, the SUBJECT LOANS or the Agreement or any facts or circumstances related to the Action, the SUBJECT LOANS or the Agreement, that Party will not be able to make any claim for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release relating to the Action, the SUBJECT LOANS or the Agreement, 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, the Parties each hereby fully, finally, and forever release and discharge the other Party, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, insurers, agents, investors, representatives, officers, directors, shareholders, independent contractors, 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 Action, the SUBJECT LOANS or the Agreement.

3.5 Express Reservation from Releases by FDIC. Notwithstanding any other provision, by this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed, (a) any claims or causes of action that do not arise from or relate to the Action, the SUBJECT LOANS or the Agreement, or the defense of the same, or (b) any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district. In addition, the FDIC specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

4. MISCELLANEOUS

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

4.2 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.

4.3 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

4.4 Governing Law. The Parties agree to submit any dispute arising out of this Settlement Agreement, or related thereto, to the Courts of the City and County of Los Angeles, California or the United States District Court, Central District of California, 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.

4.5 Attorneys Fees and Costs. 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.

4.6 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.

4.7 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.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understood 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 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.

4.9 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.

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

4.11 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 or e-mail shall be valid and effective for all purposes as an original signature, provided, however, that the original signature shall be produced upon request.

4.12 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.

4.13 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.

4.14 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.

4.15 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement 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: March 12, 2010
APPROVED AS TO FORM

LAW OFFICES OF CHRISTOPHER K. JAFARI

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By: _____

CHRISTOPHER K. JAFARI

Attorneys for Defendants,
MIRWAIS AZADZOY and INVESTORS REALTY &
MORTGAGE

DATED: March 23, 2010

INVESTORS REALTY & MORTGAGE

(b)(6)

By: _____

MIRWAIS AZADZOY
President of INVESTORS REALTY &
MORTGAGE

DATED: March 23, 2010

By: _____

MIRWAIS AZADZOY

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DATED: March , 2010
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By: _____

VANESSA H. WIDENER

Attorneys for Plaintiff,
FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for INDYMAC
FEDERAL BANK, F.S.B.

DATED: ^{April} March 5, 2010

FEDERAL DEPOSIT INSURANCE CORPORATION
AS RECEIVER FOR INDYMAC FEDERAL BANK,
F.S.B.

By:

[Redacted Signature]

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RICHARD S. GILL
Counsel, FEDERAL DEPOSIT INSURANCE
CORPORATION