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LIMS No
DIF/Mortgage Fraud

ENTERED
12/17/09

RELEASE AND SETTLEMENT AGREEMENT

1. PARTIES

1.1 The parties to this Release and Settlement Agreement (hereinafter "Agreement") are: (1) Federal Deposit Insurance Corporation, in its capacity as Receiver of IndyMac Bank, FSB ("IndyMac"); and (2) National City Bank ("NCB").

(b)(2)

2. RECITALS

2.1 IndyMac and NCB (collectively, the "Parties") were engaged in an arbitration before the American Arbitration Association ("AAA"), assigned case number 72-148-000166-08 OMTM (the "Arbitration"). The Federal Deposit Insurance Corporation was substituted in as party plaintiff by Stipulation signed April 29, 2009.

2.2 The Parties are now willing to resolve and settle their differences relative to the Arbitration.

2.3 The Parties acknowledge that this Agreement affects the settlement of claims which are contested and denied, and is the result of a compromise, and shall not be construed as an admission of liability by any of them. Each party acknowledges that the other expressly denies that it is in any way liable or obligated to the other, except for the obligations specifically set forth in this Agreement.

3. AGREEMENT BETWEEN THE PARTIES

3.1 In consideration of the agreements, mutual covenants, conditions, promises and releases contained herein, and with reference to the foregoing facts, the Parties hereby agree as follows:

3.1.A. NCB shall pay IndyMac \$80,000.00 (the "Settlement Amount") within five (5) days of this Agreement becoming fully executed by the Parties.

3.1.B. NCB shall forward the Settlement Amount to the attention of IndyMac's counsel of record, Maurice Wainer, Esq., at the following address: Law Offices of Snipper, Wainer & Markoff, 270 North Canon Drive, Penthouse, Beverly Hills, California 90210

3.1.C. Each party shall be responsible for its own costs of suit, attorney's fees, Arbitration fees and costs, and arbitrator fees and costs incurred and/or accrued in connection with the prosecution or defense of the Arbitration or the negotiation of the Agreement and specifically waives any and all claims against the other party hereto for the recovery of same.

4. RELEASE AND WARRANTY

4.1 Each party to this Agreement represents and warrants to each other party to this Agreement that each has full power, capacity and authority to enter into this Agreement. The

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Parties further warrant and represent that they have not sold or otherwise transferred to another person, organization, or entity, their rights and claims in the Arbitration.

4.2 The Parties hereby covenant and agree that neither they, nor any other person(s), entity(ies) and/or organization(s) owned or controlled by IndyMac or NCB will pursue a claim or cause of action against one another, (or their predecessors, successors, assigns, agents, employees, attorneys-in-fact, attorneys-at-law, or any of them, collectively or individually), for any type of relief which in any fashion involves or arises from the Action, the events, transactions and occurrences upon which the Action is based, and the loan or the Property which secured the Janet Oyler loan made on or about July 2005.

4.3 It is the intention of the Parties to this Agreement in executing this Agreement that it shall be effective as a full and final accord and satisfaction and settlement of, and as a bar to, each and every claim, demand and cause of action they, or their predecessors, successors, assigns, agents, employees, attorneys-in-fact, attorneys-at-law, or any of them, collectively or individually, may have against one another which arises from or out of, or in any way or fashion relates to, the Arbitration and the loan or the Property which secured the Janet Oyler loan made on or about July 2005. In addition, and in furtherance of this intention, the Parties to this Agreement expressly waive any and all rights and benefits conferred upon each of them by the provisions of Section 1542 of the California Civil Code or by any similar provision of any other state, federal, or local statute, code, ordinance or law, pertaining to the subject matters of this Agreement, and expressly consent that the releases contained in this Agreement shall be given full force and effect according to the express terms and provisions of this Agreement, including as well releases relating to unknown and unsuspected claims, demands and causes of action which arise from or out of, or in any way or fashion relate to the Action, the events, transactions and occurrences upon which the Action is based, and the loan or the Property which secured the Janet Oyler loan made on or about July 2005.

Section 1542 of the California Civil Code, which is hereby waived, reads 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.

This waiver is expressly limited to known and unknown claims pertaining to, relating to, or arising from the events, transactions and occurrences upon which the Action is based, and the loan or the Property which secured the Janet Oyler loan made on or about July 2005.

5. MISCELLANEOUS

5.1 The Parties agrees to execute and deliver to each of the other parties hereto all

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additional documents required to implement the terms and conditions of this Agreement.

5.2 The Parties agree the rights and obligations arising out of the Agreement, and each of its terms, shall be assignable and delegable, respectively, and shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the Parties, and each of them. This Agreement shall be fully enforceable and the Parties stipulate and agree that in the event of a breach of this Agreement, the Arbitrator appointed by the American Association Arbitration in the Arbitration shall, upon motion made, enter an award which award shall be fully enforceable pursuant to California Code of Civil Procedure §1283 et seq. and §1285 et seq. and that the Parties agree the Arbitrator is so empowered without further order of any court of competent jurisdiction.

5.3 In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses and reasonable attorney's fees incurred by the prevailing party (including, without limitation, such costs, expenses and fees on appeal) and, if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and fees, including those of expert witnesses and attorney's fees, shall be included as part of the judgment.

5.4 This Agreement contains the entire and final agreement and understanding concerning the subject matter herein, and supersedes, cancels and replaces any prior negotiations or agreements between the Parties.

5.5 This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California, including any disputes hereunder, and shall be construed according to its fair meaning. ~~This Agreement shall be construed without regard to the identity of the person who drafted its various provisions; each and every provision of this Agreement shall be construed as though each of the Parties participated equally in drafting same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement. The paragraph and section headings herein have been inserted for convenience only, and shall not be construed or referred to in resolving questions of interpretation or construction.~~

5.6 The Parties may execute duplicate originals of this Agreement, or any documents they are required to sign or furnish hereunder, in counterparts, any of which shall be deemed to be the original if fully executed by all of the parties. Signatures by facsimile shall be acceptable to all parties hereto.

5.7 This Agreement may not be amended, altered, modified or otherwise changed except in a writing that is signed by the party against whom the change is alleged to be effective and expressly stating that it is an amendment of this Agreement.

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5.8 If any part of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of this Agreement shall continue to remain in full force and effect.

DATED: 10-19-2009

Federal Deposit Insurance Corporation, in its capacity as Receiver of IndyMac Bank, FSB

By:

Its: Counsel

DATED: _____

National City Bank

By: _____

Its: _____

(b)(6)

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5.8 If any part of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of this Agreement shall continue to remain in full force and effect.

DATED: _____ Federal Deposit Insurance Corporation, in its capacity as Receiver of IndyMac Bank, FSB

By: _____

Its: _____

DATED: 10/14/2009

National City Bank (b)(6)

By: _____

Its: William J. Weiss VP

(b)(6)

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