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LIMS Nr

received
9/29/10

ENTERED
9/30/10

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into by and among:

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- (a) Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB;
- (b) Fifth Third Bank and Fifth Third Mortgage-MI, LLC;
- (c) Mercantile Bank Mortgage Co. LLC;
- (d) Raji Zaher, Zaher Investment Group, LLC and Woodfield Developments, Inc.; and
- (e) Lawyers Title Insurance Corporation.

A. Recitals

The facts which underlie this Agreement are as follows:

1. Description of Property

Rivershyre No. 5 is a proposed subdivision which was to have been platted under the Land Division Act, MCL 560.101, et seq., and was to have consisted of 20 lots ("Lots" or "Rivershyre No. 5 lots"). The subdivision has not been platted as of the date of this Agreement. The tract of land upon which the proposed subdivision was to have been platted is located in Davison Township, Genesee County, Michigan, and is described more particularly as follows:

Part of the Northeast 1/4 of Section 28, Town 7 North, Range 8 East, Township of Davison, Genesee County, Michigan, more particularly described as follows:
Commencing at the East 1/4 corner of said Section 28, said point also being the Southeast corner of Lot 61 of the Plat of RIVERSHYRE NO. 4, according to the recorded plat thereof, as recorded in Instrument No. 200212040136264, Genesee County Records; thence North 88 degrees 51 minutes 34 seconds West, along the East-West 1/4 line of said Section 28 and the South line of said Rivershyre No. 4 to the Southeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section 28, a distance of 1,270.26

feet; thence North 01 degrees 40 minutes 12 East, along the West line of said Rivershyre No. 4, a distance of 264.13 feet; to the point of beginning; thence North 88 degrees 51 minutes 38 seconds West, a distance of 769.01 feet; thence North 01 degrees 56 minutes 18 seconds East, a distance of 297.23 feet; thence North 88 degrees 17 minutes 30 seconds West, a distance of 150.00 feet, to the Southeast corner of Out lot B of ATHERTON ESTATES, according to the recorded plat thereof, as recorded in Liber 25, Page 47, Genesee County Records; thence around said Out lot B the following three courses and distances, North 88 degrees 17 minutes 30 seconds West, 300.00 feet, North 01 degrees 55 minutes 51 seconds East, 60.00 feet, and South 88 degrees 17 minutes 30 seconds East, 300.00 feet to the Northeast corner of said Out lot B; thence North 01 degrees 55 minutes 51 seconds East, along the East line of said Atherton Estates, a distance of 156.00 feet; thence South 88 degrees 17 minutes 30 seconds East, a distance of 228.10 feet; thence South 54 degrees 12 minutes 56 seconds East, a distance of 110.98 feet; thence South 69 degrees 33 minutes 38 seconds East, a distance of 100.91 feet; thence South 88 degrees 51 minutes 38 seconds East, a distance of 365.00 feet; thence North 72 degrees 28 minutes 04 seconds East, a distance of 100.31 feet; thence North 49 degrees 39 minutes 25 seconds East, a distance of 101.98 feet to the Northwesterly corner of Lot 78 of said Rivershyre No. 4; thence along said Rivershyre No. 4 the following five courses and distances: South 29 degrees 01 minutes 59 seconds East, 170.00 feet; South 33 degrees 21 minutes 55 seconds East, 66.19 feet; South 29 degrees 01 minutes 59 seconds East, 152.73 feet; South 60 degrees 58 minutes 01 seconds West, 258.03 feet and South 17 degrees 56 minutes 09 seconds West, 54.73 feet to the point of beginning.

2. Description of Sales of Lots from the Rivershyre No. 5

In 2005, Zaher Investment Group LLC , as seller, entered into purchase agreements with Great Lakes Broker Funding LLC ("Great Lakes"), as purchaser for proposed Rivershyre No. 5 lot Nos. 97-104 and 107-116. Zaher Investment Group LLC executed and deposited deeds for those proposed lots in escrow with Lawyers Title Insurance Corporation ("Lawyers Title"); and Great Lakes deposited the respective

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purchase prices for those proposed lots in escrow with Lawyers Title. The escrow account for the funds deposited by Great Lakes was maintained by Lawyers Title in Republic Bank, Account No. [REDACTED] Contemporaneously with the above-described transactions, Great Lakes resold the Lots to various individuals who obtained purchase money mortgages (the "Purchase Money Mortgages").

3. Description of the Lawsuits

There are currently pending the following two state court lawsuits ("Lawsuits") in which claims have been asserted against Lawyers Title Insurance Corporation ("Lawyers Title") by Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB (hereinafter referred to as "FDIC"), Fifth Third Bank and Fifth Third Mortgage-MI LLC (hereinafter referred collectively as "Fifth Third"), and Mercantile Bank Mortgage Co. LLC (hereinafter referred to as "Mercantile") (hereinafter, FDIC, Fifth Third and Mercantile are collectively referred to as "Lenders") which provided the Purchase Money Mortgages. The FDIC Lawsuit, identified below, also asserts claims against Lawyers Title in connection with a purchase money mortgage given to Darryl Bocage for the purchase of a lot in Rivershyre No. 4, Lot 27 ("Bocage Loan").

First, there is the action in Genesee County, Michigan Circuit Court titled *Federal Deposit Insurance Corporation v. Great Lakes, et al*, Case No. 06-83931-CZ (the "FDIC Lawsuit"). That action alleges various theories of recovery against Lawyers Title with respect to the closing of lot sales, purchase money mortgage loans and/or insuring title for lots located in Rivershyre No. 5 and elsewhere. IndyMac Bank ("IndyMac"), funded certain purchase money mortgage loans to Ronald M. Falconer, Samuel Willis, Jonathan & Patricia Butcher, Adam Willibey and Robert Field for the purchase from Great Lakes

of Rivershyre No. 5 lot Nos. 98, 103, 109, 112, and 114, respectively. IndyMac also funded the Bocage Loan.

After IndyMac commenced this lawsuit, the FDIC seized IndyMac. The FDIC presently asserts the claims as receiver for IndyMac Federal Bank, which was created after the IndyMac seizure.

Second, there is the action in Genesee County, Michigan Circuit Court titled *Lawyers Title v. Kenneth Deboer, et al*, Case No. 06-84682 (the "Lawyers Title Lawsuit"). In the Lawyers Title Lawsuit, Lawyers Title sought to obtain the cooperation of the parties, which held an interest in the Rivershyre No. 5 lots, in completing the platting of the Rivershyre No.5 subdivision pursuant to state law. Lawyers Title alternatively sought the return of certain monies paid out of the escrow account to or for Zaher Investment Group Inc, pending the platting of Rivershyre No. 5.

In the Lawyers Title Lawsuit, Mercantile asserted a counter claim with various theories of recovery against Lawyers Title for the closing of and/or insuring title to certain Rivershyre No. 5 lots. Mercantile provided purchase money mortgage loans to Kenneth DeBoer, Cheryl & Kevin Murray (2 loans), Tiffany Baker, Gregory Sims, Antonio Harris and Daryl Newman for the purchase of Rivershyre No. 5 lot Nos. 97, 99, 100, 104, 107, 110, 111, respectively.

Fifth Third also asserted a counter claim in the Lawyers Title Lawsuit with various theories of recovery against Lawyers Title for the closing of and/or insuring title to certain Rivershyre No. 5 lots. Fifth Third provided purchase money mortgage loans to Jon Etheridge, Kelly McCrillis, Cynthia Flowers, Adam Willibey, and Kerry Williams for the purchase of Rivershyre No. 5 lot Nos. 101, 102, 113, 115 and 116, respectively.

The purchase money mortgage loans identified above are collectively referred to in this Agreement as "the Loans."

Lawyers Title has denied and vigorously defended all of the claims asserted against it in the state court Lawsuits.

Summary disposition in favor of Fifth Third against Lawyers Title was granted in this matter and Lawyers Title filed an application for leave to appeal in the Michigan Court of Appeals, docket no. 297102.

Lawyers Title, FDIC, Fifth Third, and Mercantile also contemplated claims against Zaher Investment Group, Inc., Raji J. Zaher and Woodfield Developments Inc (sometimes collectively referred to as the "Zaher Entities") arising out of the above-described transaction.

In addition to the two state court Lawsuits, there is a forfeiture action in the United States District Court for the Eastern District of Michigan titled *United States of America v. Seven Hundred Sixteen Thousand Five Hundred Two Dollars and Forty Four cents in United States Currency (\$716,502.44)*, Case No. 08-11475 (the "Forfeiture"). The United States of America claims, pursuant to federal civil forfeiture statutes, the \$716,502.44, which the FBI seized from Lawyers Title's escrow account described above (hereinafter referred to as "Escrow Funds"). Lawyers Title filed an answer in the Forfeiture. IndyMac (now FDIC), Fifth Third, and Mercantile filed petitions of remission pursuant to the forfeiture statutes for recovery of the Escrow Funds in the event that the United States prevails in the Forfeiture. None of the Zaher Entities is involved or has an interest in the Forfeiture; none of the Zaher Entities has made or has any claims in

the Forfeiture; and none of the Zaher Entities has asked any party to represent any of its interests in the Forfeiture.

4. The Settlement

The parties have engaged in vigorously contested litigation for years, including the production of thousands of documents, numerous sets of interrogatories, depositions, motions, and briefs. In addition, counsel for the parties have engaged in extensive arms-length settlement negotiations, including Court ordered facilitation, which resulted in this Agreement.

B. Agreement

The parties, in order to avoid the expense, inconvenience, and uncertainties of further litigation, and without the admission of liability on the part of any party, the same being expressly denied, desire to settle and resolve the controversies between them , as follows.

1. Payment by Lawyers Title

In return for full settlement of all claims against Lawyers Title arising from or relating to the Lawsuits, the Forfeiture, the Rivershyre No. 5 lots and escrow money, Lawyers Title agrees to the following:

- (A) Pay \$250,000 to FDIC within thirty (30) days of the execution of this Agreement, including the mutual releases contained in paragraph 4 hereof; and
- (B) Pay \$200,000 to Fifth Third, through Fifth Third Mortgage-MI LLC, within thirty (30) days of the execution of this Agreement, including the mutual releases contained in paragraph 4 hereof;

2. Consent Judgment in Forfeiture Action

Lawyers Title, through counsel, shall enter into a consent judgment in the Forfeiture, in a form attached as Exhibit A, relinquishing its claim to the Escrow Funds and consenting to the Escrow Funds being forfeited to the United States. Lawyers Title further agrees to reasonably cooperate with Lenders as to the Forfeiture, and the distribution of the Escrow Funds, including, but not limited to, executing and delivering documents requested by the Asset Forfeiture and Money Laundering Section, Department of Justice, or any other agency of the United States, and performing any additional acts that are reasonably necessary or advisable to facilitate the Escrow Funds being distributed to the Lenders.

The Zaher Entities disclaim any and all interest in the Escrow Funds and the Forfeiture and shall not be required to take any action or execute any documents related to the Escrow Funds or the Forfeiture.

3. Acceptance of Lots "As Is"

FDIC, Mercantile, and Fifth Third agree, as a part of this Agreement, that their interests in the Lots are accepted "as is." No party to this Agreement shall have any obligation to plat the Lots or otherwise render the Lots marketable. Further, no party to this Agreement shall have any obligation to quiet or clear title to the Lots. Finally, no party to this Agreement shall have any claim against any other party to this Agreement with respect to the condition, title, marketability of title, or other characteristic or feature of any of the Lots or the parcel of land described in Paragraph 1 of this Agreement, all of which claims and potential claims are hereby released and waived.

4. Mutual Releases

For valuable consideration, the sufficiency of which is hereby acknowledged, FDIC, Mercantile, Fifth Third, the Zaher Entities, and Lawyers Title (the "Released Parties") their successors in interest, representatives, receivers, members, partners, attorneys, agents, employees, officers, directors, shareholders, predecessors, parent companies, subsidiaries, affiliates, and assigns, **MUTUALLY RELEASE, ACQUIT, AND FOREVER DISCHARGE** each other and their past and present parent companies, subsidiaries, affiliates, predecessors, successors, reinsurers, receivers, members, partners, shareholders, officers, directors, employees, agents, attorneys, and assigns from any and all claims, rights, demands, debts, liabilities, damages, punitive damages, exemplary damages, costs, interest, controversies, or causes of action, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, of any nature whatsoever arising out of or relating to (1) the Loans; (2) Closing Protection Letters ("CPLs") as they relate to the Loans; (3) title commitments or policies as they relate to the Loans; (4) the Escrow Funds; (5) the Lots; (6) the sales, transfers and conveyances of the Lots and attempted sales, transfers and conveyances of the Lots; (7) any and all claims asserted or which could have been asserted by the Released Parties in the Lawsuits that arise out of or relate to Paragraph B.4.(1)-(6) or the facts or claims alleged in the Lawsuits or the Forfeiture, including, but not limited to, claims in contract or in tort, under statutory or common law, for actual, multiple, exemplary or punitive damages, interest, attorney fees, or costs; and (8) any act, transaction, or occurrence prior to the date of this Agreement pertaining to the subject matter of this Agreement. It is expressly understood that nothing herein shall constitute a release of claims that are unrelated to the subject matter of this

Agreement. The parties acknowledge that the subject matter of this Agreement includes the claims made, claims that could have been made, and the facts alleged in the Lawsuits. It is further expressly understood that nothing herein shall constitute a release of claims that the Released Parties have or may have against any other party to the Lawsuits or person who is not specifically released in this Agreement.

5. Third-Party Borrower Claims

Lenders shall make a good faith effort to secure assignments or releases of any claims held by any borrower of the Loans who is not a party to this Agreement ("Third Party Borrower") against Lawyers Title, its past and present parent companies, subsidiaries, affiliates, predecessors, successors, reinsurers, receivers, members, partners, shareholders, officers, directors, employees, agents, attorneys, and assigns from any and all claims, rights, demands, debts, liabilities, damages, punitive damages, exemplary damages, costs, interest, controversies, or causes of action, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, of any nature relating to the Loans and Lots. The release granted by Lenders in this Agreement shall expressly include these assigned claims, if any, whether the assignments are obtained before or after the execution of this Agreement.

Further, with respect to Mercantile, if its borrower, Daryl Newman, obtains a final judgment, after trial or summary disposition hearing and exhaustion of all appeals, against Lawyers Title, relating to lot 111 of Rivershyre No. 5, Mercantile shall assign to Lawyers Title the amount, if any, then remaining due and owing from Newman to Mercantile pursuant to the Judgment entered in Case No. 09-00822 CK in the Wayne County Circuit Court. In the event Mercantile compromises the Judgment amount in

~~Case No. 09-00822 CK with Mr. Newman, it shall obtain a release from Mr. Newman of~~

any claim he may have against Lawyers Title, its past and present parent companies, subsidiaries, affiliates, predecessors, successors, reinsurers, receivers, members, partners, shareholders, officers, directors, employees, agents, attorneys, and assigns from any and all claims, rights, demands, debts, liabilities, damages, punitive damages, exemplary damages, , costs, interest, controversies, or causes of action, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, of any nature pertaining to lot 111.

6. Ownership of Claims

Each of the Released Parties represents and warrants that it owns and has not sold, assigned, conveyed, or otherwise transferred any rights, benefits, or claims released in paragraph 4 above including, without limitation, to any purchaser or insurer of the Loans.

7. Dismissal of the Lawsuits

Upon the full execution and delivery of this Agreement, FDIC, Fifth Third, Mercantile, the Zaher Entities, and Lawyers Title shall dismiss the Lawsuits with prejudice , each party bearing it own costs and attorneys' fees All parties bear their own expense and waive all claims, including claims for expert fees. Lawyers Title, through counsel, shall also voluntarily dismiss with prejudice the appeals entitled: *The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB v. Lawyers Title Insurance Corporation*, Michigan Court of Appeals Case No. 296970; and *Lawyers Title Insurance Corporation v. DeBoer, et al.*, Michigan Court of Appeals Case No. 297102.

8. Careful Review and Understanding of Agreement

The Released Parties represent to each other that they have carefully read this Agreement and understand its terms and conditions, and that they have had ample opportunity to consult with legal counsel of their choice and have not relied on any representations or statements of each other or each other's counsel.

9. Binding Effect

It is understood and agreed that this Agreement shall be binding upon and inure to the benefit of the Released Parties, their successors, predecessors, affiliates, legal representatives, attorneys, agents, and assigns.

10. No Admission

It is fully understood by the Released Parties that this Agreement constitutes a settlement of disputed claims in order to avoid further litigation and expense, and that nothing herein shall constitute or imply an admission of liability of any kind or character by the Released Parties, which such liability is expressly denied.

11. Severability

If any portion or portions of this Agreement is held by a court of competent jurisdiction to conflict with any federal, state, or local law, and as a result, such portion or portions are declared to be invalid and of no force and effect in such jurisdiction, all remaining provisions of this Agreement shall otherwise remain in full force and effect and be construed as if such invalid portion or portions had not been included herein.

12. Choice of Law

The Released Parties agree that this Agreement shall be construed and enforced under the laws of the State of Michigan.

13. No Other Agreements

It is understood and agreed that this Agreement contains the entire agreement between the Released Parties and supersedes any and all prior agreements, arrangements, or understandings between them. This Agreement cannot be changed or terminated orally. All representations and promises made by any party to another, whether in writing or orally, are understood by the Released Parties to be merged into this Agreement. Further, this Agreement and the Mutual Releases contained herein are not contingent on any receipt and/or distribution of the Escrow Funds, by and between the Lenders. Also, this Agreement does not alter or change the terms of the settlement agreement reached between Mercantile and Lawyers Title wherein the claims asserted in *Mercantile Bank Mortgage Co., LLC v. Kurt W. Heintz, et al.*, Genesee County, Michigan Circuit Court, Case No. 06-83393-CZ, were previously settled.

14. Execution

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of the Agreement or in enforcing its provisions to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the Released Parties have executed this Agreement on the dates acknowledged below.

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for IndyMac Federal Bank, FSB

By: _____
Its: _____
Date: _____

FIFTH THIRD BANK

By: _____
Its: _____
Date: _____

FIFTH THIRD MORTGAGE-MI, LLC

By: _____
Its: _____
Date: _____

MERCANTILE BANK MORTGAGE CO. LLC

(b)(6) [Redacted Signature] _____
By: _____
Its: (b)(6) Senior Vice President
Date: 7/6/10

RAJI J. ZAHER

Date: _____

ZAHER INVESTMENT GROUP, LLC
A Michigan limited liability company

By: _____
Its: _____
Date: _____

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for IndyMac Federal Bank, FSB

By: _____
Its: _____
Date: _____

FIFTH THIRD BANK

By: _____
Its: *SVP & Asst. Gen. Counsel*
Date: *7-2-2010*

FIFTH THIRD MORTGAGE-ML LLC

By: _____
Its: *SVP & Asst. Gen. Counsel*
Date: *7-2-2010*

MERCANTILE BANK MORTGAGE CO. LLC

By: _____
Its: _____
Date: _____

RAJI J. ZAHER

Date: _____

ZAHER INVESTMENT GROUP, LLC

A Michigan limited liability company

By: _____
Its: _____
Date: _____

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for IndyMac Federal
Bank, FSB

(b)(6)

By: _____
Its: Counsel
Date: 7-29-2010

FIFTH THIRD BANK

By: _____
Its: _____
Date: _____

FIFTH THIRD MORTGAGE-MI, LLC

By: _____
Its: _____
Date: _____

MERCANTILE BANK MORTGAGE CO. LLC

By: _____
Its: _____
Date: _____

RAJI J. ZAHER

Date: _____

ZAHER INVESTMENT GROUP, LLC
A Michigan limited liability company

By: _____
Its: _____
Date: _____

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for IndyMac Federal Bank, FSB

By: _____
Its: _____
Date: _____

FIFTH THIRD BANK

By: _____
Its: _____
Date: _____

FIFTH THIRD MORTGAGE-MI, LLC

By: _____
Its: _____
Date: _____

MERCANTILE BANK MORTGAGE CO. LLC

By: _____
Its: _____
Date: _____

(b)(6)

RAJI J. ZAHER (b)(6)
Date: _____

ZAHER INVESTMENT GROUP, LLC
A Michigan limited liability company

(b)(6)

By: _____
Its: _____
Date: _____

(b)(6)

WOODFIELD DEVELOPMENTS, INC.

A Michigan Corporation

(b)(6)

By: _____

Its: _____

Date: _____

LAWYERS TITLE INSURANCE
CORPORATION

By: _____

Its: _____

Date: _____

(b)(6)

WOODFIELD DEVELOPMENTS, INC.

A Michigan corporation

By: _____

Its: _____

Date: _____

LAWYERS TITLE INSURANCE
CORPORATION

By: _____

Its: Senior Vice President

Date: July 12, 2010

(b)(6)

July 12, 2010