

SETTLEMENT AGREEMENT AND MUTUAL RELEASES

This Settlement Agreement and Mutual Releases ("Agreement") is made this ^{AS OF} 15th day of May, 2012 by, between and among the following undersigned Parties: the Plaintiff, Federal Deposit Insurance Corporation, in its capacity as receiver for AmTrust Bank ("FDIC-R"); and the Defendant SI Mortgage Company ("SI Mortgage"); both of whom are parties in a case captioned *FDIC, as Receiver for AmTrust Bank v. Pankaj Malik, et al.*, Case No: 09-cv-4805 (E.D.N.Y.) ("The Litigation").

RECITALS

WHEREAS, In November, 2009, AmTrust Bank initiated The Litigation against its closing attorney Pankaj Malik, various mortgage brokers, and other individuals and entities alleged to be involved in the origination of mortgages using improper flip transactions and straw buyers, including claims against SI Mortgage for breach of contract related to one such mortgage;

WHEREAS, on December 4, 2009, AmTrust was closed by the Office of Thrift Supervision and, pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-R succeeded to all rights, titles, powers, and privileges of the Bank, including those with respect to its assets and all of the Bank's claims, demands, and causes of action, including those claims asserted in The Litigation; and

WHEREAS, SI Mortgage has denied the allegations asserted against it for breach of contract;

WHEREAS, SI Mortgage has provided the FDIC-R with a sworn affidavit and other financial materials to demonstrate that it has limited means from which to pay a judgment;

WHEREAS, the FDIC-R has relied upon the accuracy of the information provided by SI Mortgage regarding its financial condition as a material condition for entering this Settlement Agreement; and

WHEREAS, without any admission of liability by any of the undersigned Parties, the Parties deem it to be in their respective best interests to end their disputes arising out of and related to The Litigation, and avoid further costs and risks associated with The Litigation and enter into this Agreement.

NOW, THEREFORE, in consideration of the promises, undertakings and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, each with each other, as follows:

Section 1. Payment to the FDIC-R.

A. As an essential covenant and condition to this Agreement, SI Mortgage has agreed to pay the FDIC-R the sum of Two Hundred Thousand Dollars (\$200,000.00) (the "Settlement Funds").

B. Following the execution of the Agreement, SI Mortgage shall deliver the payment of the Settlement Funds to the FDIC-R by direct wire transfer into an account designated by FDIC-R or by certified or cashier's check drawn upon a depository institution acceptable to FDIC-R according to the schedule in Section 1. C., infra, below.

C. Beginning on October 1, 2012, on the first day of each quarter thereafter (January 1, April 1, July 1 and October 1), SI Mortgage shall make installment payments of Twelve

Thousand Five Hundred Dollars (\$12,500.00) of the Settlement Funds to the FDIC-R by direct wire transfer into an account designated by FDIC-R or by certified or cashier's check drawn upon a depository institution acceptable to FDIC-R, provided, however, that as long as a payment of at least \$5,000 is made during a quarter, and further provided that as long as at the end of each successive one-year period ending on October 1, S.I. Mortgage has made payments of at least \$50,000 per year for four successive years, S.I. Mortgage shall not be in default of its payment obligations pursuant to this Agreement. SI Mortgage shall make payments of not less than \$50,000 annually, paid over four years, until the entire Settlement Funds have been paid.

Section 2. Confession of Judgment.

A. As an additional essential covenant and condition to this Agreement, SI Mortgage has agreed to execute and deliver to the FDIC-R an Affidavit of Confession of Judgment, in the form of the Cognovit Note attached, confessing judgment in the FDIC-R's favor for the sum of Five Hundred Ten Thousand Dollars (\$510,000.00).

B. In the event that SI Mortgage fails to make any of the payments described in Section 1 above by the applicable deadlines, SI Mortgage shall be in default of this Agreement and the FDIC-R shall have the right to obtain a Confession of Judgment against SI Mortgage in order to recover the amount of Five Hundred Ten Thousand Dollars, less any Settlement Funds already paid to the FDIC-R.

C. If the Settlement Funds, or any portion thereof, are not received by the FDIC-R within the deadlines stated in Section 1 of the Agreement, interest upon any unpaid portion of the Settlement Funds will accrue at a rate of 6% per annum commencing on the 31st day after the funds were due.

D. Without waiving any other rights that the FDIC-R may have, in the event that the Settlement Funds, including all accrued interest as may be applicable, are not received by the dates specified in Section 1 of this Agreement, then the FDIC-R shall have the right, in its sole discretion, to enforce this Agreement, and SI Mortgage shall be responsible for the sum of Five Hundred Ten Thousand Dollars (\$510,000), and all fees, including attorney fees, incurred by the FDIC-R in enforcing the Agreement. The Parties further acknowledge and consent to the jurisdiction of Magistrate Judge Azrack for enforcement of this Agreement in connection with her continuing role overseeing settlement negotiations related to The Litigation.

Section 3. Stipulations and Dismissals.

Upon execution of this Agreement by each of the undersigned Parties, the FDIC-R shall dismiss with prejudice all of its claims in the Litigation against SI Mortgage. The FDIC-R shall prepare and execute a stipulation of dismissal with prejudice as to these claims within 30 days after receipt of the initial payment of the Settlement Funds by SI Mortgage.

Section 4. Mutual Releases.

A. Release of SI Mortgage by the FDIC-R.

Effective upon receipt of the initial payment of Settlement Funds specified in Section 1 above, the FDIC-R hereby releases and discharges SI Mortgage, its insurers, representatives, successors, assigns and attorneys, from any and all claims, demands, obligations, damages, actions, causes of action, direct or indirect, in law or in equity, belonging to the FDIC-R that arise from or relate to The Litigation.

B. Release of the FDIC-R by SI Mortgage.

Effective simultaneously with the release in Section 5A above, SI Mortgage, on its own behalf, and on behalf of its insurers, representatives, successors, assigns, and attorneys hereby releases and discharges the FDIC-R from any and all claims, demands, obligations, damages, actions, causes of action, direct or indirect, in law or in equity, that arise from or relate to the Litigation.

C. Express Reservation of Releases By The FDIC-R.

1. Notwithstanding any other provision, by this Agreement, the FDIC-R does not release and expressly preserves fully and to the same extent as if the Agreement had not been executed, any rights, claims or causes of action:

- i. Against any other party in the Litigation not expressly released by this Agreement; and
- ii. Which are not expressly released in Section 5A, above.

2. Notwithstanding any other provision of this Agreement, nothing herein limits, waives, releases, diminishes or compromises the jurisdiction and authority of the Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority to institute administrative enforcement or other proceedings seeking removal, prohibition, civil penalties, restitution or other relief it is authorized to seek pursuant to its supervisory or regulatory authority against any person, or which may arise by operation of law, rule, or regulation.

3. Notwithstanding any other provision of this Agreement, this Agreement does not waive any claims which could be brought by the United States through the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC-R

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.

Section 5. Representations and Acknowledgments

A. No Admission of Liability. The undersigned Parties each acknowledge and agree that the matters set forth in this Agreement constitute a settlement and compromise of disputed claims and that this Agreement is not an admission or evidence of any liability of any of them regarding any claim.

B. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties named herein and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Party or Parties subscribed thereto upon the execution by all Parties to this Agreement.

C. Binding Effect. Each of the undersigned persons represents and warrants that they are a Party hereto or are authorized to sign this Agreement on behalf of a Party, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective heirs, executors, administrators, representatives, successors, assigns and attorneys.

D. Specific Representations, Warranties and Disclaimer. SI Mortgage acknowledges that in determining to settle the claims released herein, the FDIC-R reasonably and justifiably relied upon the accuracy of financial information provided by SI Mortgage. If SI Mortgage failed to disclose, or misrepresented the nature or amount of, any interest, legal,

equitable, or beneficial, in any asset, SI Mortgage agrees to cooperate fully with the FDIC-R to transfer its interest in the asset to the FDIC-R and to sign any and all documents necessary to transfer its interest in the asset to the FDIC-R. Moreover, if SI Mortgage has intentionally failed to disclose or materially misstated any interest, legal, equitable, or beneficial, in any asset, the FDIC-R in its sole discretion, may exercise one or more or all of the following remedies: (a) the FDIC-R may declare the release granted to SI Mortgage as null and void; (b) the FDIC-R may sue SI Mortgage for damages, an injunction, and specific performance for the breach of this Agreement; and (c) the FDIC-R may seek to vacate any dismissal order and reinstate the FDIC-R's claims against SI Mortgage. SI Mortgage agrees that if it has intentionally failed to disclose, or materially misrepresented the nature or amount of, any interest, legal, equitable, or beneficial, in any asset, SI Mortgage consents to the reinstatement of FDIC-R's claims and waives any statute of limitations defense that would bar any of the FDIC-R's claims against it.

E. Choice of Law. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of New York.

F. Entire Agreement and Amendments. This Agreement along with the Affidavit of Confession of Judgment described in Section 2 constitute the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the parties to be bound thereby, or by their respective authorized attorneys or other representatives.

G. Advice of Counsel. Each Party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that Party by his or her counsel.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representative on the dates hereinafter subscribed.

Federal Deposit Insurance Corporation, as Receiver for AmTrust Bank

(b)(6) _____
Date: August 15, 2012

SI Mortgage Company.

Date AUG. 9, 2012

(b)(6)

COGNOVIT NOTE

SI Mortgage Company ("SI Mortgage"), the undersigned, of 51650 Oro Road, Shelby Township, Michigan, 48315, hereby promises to pay to the order of the Federal Deposit Insurance Corporation in its capacity as receiver for AmTrust Bank ("FDIC-R"), the sum of Five Hundred Ten Thousand Dollars (\$510,000.00) as provided by the Settlement Agreement and Mutual Releases ("Settlement Agreement") executed by SI Mortgage and FDIC-R and dated June 3rd, 2012.

In the event that SI Mortgage fails to make any payment as required by the Settlement Agreement, SI Mortgage hereby authorizes any attorney at law to appear in any court of record in the United States, to waive the issuing and service of process, and to confess a judgment against SI Mortgage for Five Hundred Ten Thousand Dollars (\$510,000.00), less any amount that SI Mortgage has already paid to FDIC-R pursuant to the Settlement Agreement, plus costs and attorney fees. SI Mortgage hereby gives its attorney full power and authority to perform every act necessary to exercise this power and to secure the entry of judgment against SI Mortgage. SI Mortgage acknowledges that, by signing this Cognovit Note, it is giving up its right to notice and a court trial prior to the entry of a court judgment against it on this obligation.

Dated: AUG. 9, 2012, at SHELBY TOWNSHIP, MI

SI MORTGAGE COMPANY

(b)(6) _____
(b)(6) _____
By: _____ RAJEEV GANDHI
Title: _____ President