

LIMS N- [redacted]

(b)(2)

received
9/27/10

ENTERED
9/30/10

RELEASE AND SETTLEMENT AGREEMENT

(b)(2)
[redacted]

This Release and Settlement Agreement ("*Agreement*") is entered into by and between Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB ("*FDIC*") and Ticor Title Insurance Company of Florida ("*Ticor*") with respect to the claims made in the case captioned *Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB v. Great Lakes Broker Funding, LLC, et al.*, Genesee County Circuit Court Case No. 06-83931-CZ (the "*Litigation*"). The *Agreement* is effective on the date that all parties have executed the *Agreement* (the "*Effective Date*").

RECITALS

WHEREAS, IndyMac Bank, F.S.B ("*IndyMac*") funded mortgage loans to individual borrowers Douglas Anderson, Dale Burke, Paul and Rebecca Coulson, Charles D. Craft, Colin Kukavica, Marco Maniaci, Kevin Murray, Gregory Pelc, Johnnie B. Rogers, Ronald Todd, Michael Washington, and Richard M. Willibey to finance the acquisition of vacant single-family residential lots (the "*Subject Loans*");

WHEREAS, Title Michigan Agency, Inc. closed the mortgage loan transactions for the *Subject Loans* (the "*Subject Closings*");

WHEREAS, *Ticor* issued Closing Protection Letters covering the *Subject Closings* and Loan Policies of Title Insurance insuring *IndyMac's* mortgages securing the *Subject Loans*;

WHEREAS, *IndyMac* asserted claims in the *Litigation* against *Ticor* based on the *Subject Closings* and the Loan Policies of Title Insurance insuring *IndyMac's* mortgages securing the *Subject Loans*;

WHEREAS, *FDIC* is entitled to pursue the claims asserted in the *Litigation* by *IndyMac* and collect any recovery based on such claims;

WHEREAS, *Ticor* expressly denies any liability relating to the asserted claims in the *Litigation*; and

WHEREAS, to avoid any further expense of litigation, the parties voluntarily enter into this *Agreement*.

In consideration of the above and for such other good and valuable consideration, the sum and sufficiency of which is hereby acknowledged and based on the mutual promises and conditions contained herein, the parties agree as follows:

1. **Recitals.** The above Recitals are incorporated herein by reference and made a part of this *Agreement*.

2. **Dismissal and Release.** *FDIC* and *Ticor*, through counsel, shall execute a dismissal with prejudice and without any costs or attorney's fees to any party regarding all claims in the *Litigation* between *Ticor* and *FDIC*.

For and in consideration of the total payment of \$220,000 (Two Hundred Twenty Thousand Dollars) by *Ticor*, paid by a check drawn on the Trust Account of Barnes & Thornburg LLP, payable to "The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB," within fifteen (15) days of the *Effective Date*, and in consideration of the terms and conditions of this *Agreement*, *FDIC*, its officers, directors, shareholders, employees, agents, affiliates, successors and assigns, jointly and severally do absolutely and unconditionally release *Ticor*, and *Ticor's* officers, directors, shareholders, members, insurers, employees, owners, agents, affiliates, successors, fiduciaries, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, of whatever nature or description, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Litigation*, which *FDIC* had, has, claims to have, or may hereafter acquire against *Ticor*, arising

out of the events and transactions which were or are the subject matter of the *Litigation*, or otherwise relating to the *Subject Loans* or *Subject Closings*.

3. **Express Reservation from Releases.** Nothing in this *Agreement* waives any claim, cause of action, or any rights to contribution or other claims held by the parties, existing currently or arising in the future, against any other individual or entity not expressly released by this *Agreement*, including but not limited to any other party in the *Litigation*.

Notwithstanding any other provision, by this *Agreement*, *FDIC* does not release, and expressly preserves fully and to the same extent as if the *Agreement* had not been executed, (a) any claims or causes of action held by *FDIC*, existing currently or arising in the future, against Lawyers Title Insurance Corporation that arise from or relate to the facts and circumstances alleged in the *Litigation*, or (b) any claims or causes of action that do not arise from or relate to the facts and circumstances alleged in the *Litigation*, or the defense of the same.

4. **Attorney's Fees and Costs.** Each party shall bear its own attorney's fees and costs with respect to the *Litigation*.

5. **Amendment.** This *Agreement* may not be amended or modified at any time except by any instrument in writing executed by all of the parties hereto.

6. **Execution.** This *Agreement* may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument. The parties also agree that, without receiving further consideration, they will sign and deliver such documents and do anything else that is reasonably necessary in the future to make the provisions of this *Agreement* effective.

7. **Governing Law.** This *Agreement* shall be governed by and construed in accordance with Michigan law (excluding any conflict of laws rule or principle that might refer

the governance or construction of this *Agreement* to the law of another jurisdiction). Nothing in this *Agreement* shall require any unlawful action or inaction by any party hereto.

8. **Severability.** If any portion of this *Agreement* is found to be unenforceable, the parties desire that all other portions that can be separated from the unenforceable portion or appropriately limited in scope shall remain fully valid and enforceable.

9. **Representation.** No representation or warranty has been made by or on behalf of any party to this *Agreement* (or any officer, director, employee or agent thereof) to induce any other party to enter into this *Agreement* or to abide by or consummate any transactions contemplated by any terms of this *Agreement*, except representations and warranties, if any, expressly set forth herein. In entering into this *Agreement*, the parties hereto represent that they have proceeded with the advice of an attorney of their own choice, that they have read the terms of this *Agreement*, that the terms of this *Agreement* have been completely read and explained to the parties by their attorney, and that those terms are fully understood and voluntarily accepted by the parties.

10. **Integrated Agreement.** This *Agreement* sets forth the entire understanding between the parties concerning the subject matter of this *Agreement* and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this *Agreement* other than those set forth herein.

11. **Authority.** Each person signing this *Agreement* on behalf of any entity warrants or represents that he/she has the full and complete authority to enter into this *Agreement* on behalf of that entity.

The parties to this *Agreement* have executed this *Agreement* as of the date indicated by each party's signature.

Federal Deposit Insurance Corporation, as
Receiver for IndyMac Federal Bank FSB

(b)(6)

By:

Name: Richard S. Gill

Title: Counsel

Date: 2-17-2010

Ticor Title Insurance Company of Florida

By: _____

Name: Susan E. Woods

Title: Senior Vice President and Associate General Counsel

Date: February __, 2010

The parties to this *Agreement* have executed this *Agreement* as of the date indicated by each party's signature.

Federal Deposit Insurance Corporation, as
Receiver for IndyMac Federal Bank FSB

By: _____

Name: _____

Title: _____

Date: _____

Ticor Title Insurance Company of Florida

(b)(6)

By:

Name: Susan E. Woods

Title: Senior Vice President and Associate General Counsel

Date: February 8, 2010