

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Settlement Agreement") is entered into and made effective as of the 12th day of October, 2010 ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC"), T.J. Financial, Inc. ("TJ FINANCIAL"), and Tien-I Lee ("LEE"). The FDIC, TJ FINANCIAL, and LEE may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

1.1 On or about April 13, 2004, IndyMac Bank, F.S.B. ("INDYMAC") and TJ FINANCIAL entered into a business relationship governed by a Seller Contract and e-MITS™ User Agreement (hereinafter "Contract").

1.2 TJ FINANCIAL sold and/or delivered mortgage loans to INDYMAC pursuant to the Contract. A dispute has arisen between the Parties with respect to outstanding demands for repurchase and/or indemnity.

1.3 On or about April 22, 2010, the FDIC filed a lawsuit entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, FSB v. T.J. FINANCIAL, INC., a California Corporation* in the United States District Court, Central District of California, Case No. CV10-3033 (hereinafter "Action") seeking damages arising from certain mortgage loans. Specifically, the FDIC claims that TJ FINANCIAL breached the Contract by refusing to repurchase and/or indemnify for losses sustained on certain mortgage loans after receiving demands to do so. In addition, the FDIC asserted claims of negligence and negligent hiring/supervision against LEE as the broker of record of TJ FINANCIAL.

1.4 Without admitting liability, the Parties desire to and have agreed to settle all repurchase and indemnification claims relating to all mortgage loans which were ever sold directly by TJ FINANCIAL to INDYMAC whether or not identified in the Action (collectively, the "LOANS") upon the terms and conditions hereinafter set forth.

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:

1.5 Recitals. The Recitals set forth above are incorporated into the body of this Settlement Agreement as though fully set forth herein.

1.6 Payment of the Settlement Funds. TJ FINANCIAL shall pay the total sum of \$350,000 (Three Hundred Fifty Thousand Dollars) (the "Settlement Funds"). The Settlement Funds shall be payable as follows:

- a. The sum of \$100,000 (One Hundred Thousand Dollars) shall be paid by no later than November 15, 2010.
- b. Quarterly payments of \$50,000 (Fifty Thousand Dollars) shall be paid on or before each of the following dates:
 - (i) January 15, 2011;
 - (ii) April 15, 2011;
 - (iii) July 15, 2011;
 - (iv) October 15, 2011;
 - (v) December 31, 2011.

c. Payments shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number: [REDACTED] Routing Number: [REDACTED] Reference: TJ Financial Settlement.

1.7 Concurrently with the signing and delivery of this Settlement Agreement, TJ FINANCIAL shall execute a Stipulation for Entry of Judgment in the amount of \$350,000 (Three Hundred Fifty Thousand Dollars) in the form attached hereto as Exhibit 1. The Stipulation for Entry of Judgment incorporates by reference the Judgment (Pursuant to Stipulation), attached to the Stipulation as Exhibit A. Both the Stipulation and Judgment are incorporated by reference herein and their terms are made a part of this Settlement Agreement.

1.8 In the event TJ FINANCIAL defaults by failing to make a timely payment as set forth in this Settlement Agreement, the FDIC shall give notice of the default and notice of its intent to enter Judgment (Pursuant to Stipulation) via mail, email or fax to John Tate, Esq. Davis Wright Tremaine, LLP, 865 S. Figueroa, Suite 2400, Los Angeles, CA 90017, F: (213) 633-6899, [REDACTED] and TJ FINANCIAL at 181 W. Huntington Drive, Suite 108, Monrovia, CA 91016, F: (626) 599-8884, [REDACTED] or such other address as may be provided in writing to counsel for the FDIC.

1.9 TJ Financial shall have seven (7) business days from date of the notice to cure the default. In the event TJ Financial fails to cure the default within seven (7) business days, the remaining balance of the Settlement Funds, less credit for any payments made, will be immediately due and payable. The FDIC shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) against TJ FINANCIAL, and enforce said Judgment against TJ FINANCIAL. Judgment may be entered by ex parte application (without testimony or trial and TJ FINANCIAL waives the right to a court and/or jury trial) with notice given to TJ FINANCIAL as set forth above. The FDIC shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, attorneys' fees and costs incurred in collecting all sums owing.

1.10 LEE personally guarantees payment of the Settlement Funds. LEE agrees to pay and perform in accordance with the terms of the indebtedness without requiring the FDIC to exercise, pursue, or enforce any right or remedy the FDIC has against TJ FINANCIAL first.

1.11 Concurrently with the signing and delivery of this Settlement Agreement, LEE shall execute a Stipulation for Entry of Judgment in the amount of \$350,000 (Three Hundred Fifty Thousand Dollars) in the form attached hereto as Exhibit I. The Stipulation for Entry of Judgment incorporates by reference the Judgment (Pursuant to Stipulation), attached to the Stipulation as Exhibit A. Both the Stipulation and Judgment are incorporated by reference herein and their terms are made a part of this Settlement Agreement.

1.12 In the event TJ FINANCIAL defaults by failing to make a timely payment as set forth in this Settlement Agreement, the FDIC shall give written notice of the default to LEE by sending notice to John Tate, Esq. Davis Wright Tremaine, LLP, 865 S. Figueroa, Suite 2400, Los Angeles, CA 90017, F: (213) 633-6899.

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1.13 LEE shall have twelve (12) business days from date of the notice to cure the default. In the event LEE fails to cure the default within twelve (12) business days, the remaining balance of the Settlement Funds, less credit for any payments made, will be immediately due and payable. The FDIC may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) against LEE, and enforce said Judgment against LEE. Judgment may be entered by ex parte application (without testimony or trial and LEE waives the right to a court and/or jury trial) with notice given to LEE as set forth above. The FDIC shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, attorneys' fees and costs incurred in collecting all sums owing.

1.14 Within five (5) business days of the FDIC's counsel's receipt of the fully executed Settlement Agreement, the FDIC's counsel shall file a Stipulation for Dismissal of the Action With Prejudice.

1.15 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 the court retain jurisdiction over the Parties to enforce this Settlement Agreement and, if necessary, the Judgment (Pursuant to Stipulation).

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

RELEASE

1.17 **Unknown Claims.** Each Party acknowledges that 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 that Party may have against the other Party arising from the obligation to repurchase and/or indemnify for losses associated with the LOANS. Each Party hereby expressly waives application of *California Civil Code §1542* and any other similar statute or rule with respect to the LOANS as provided for herein.

1.18 Each Party certifies that they have read and understood 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."

1.19 Each Party understands and acknowledges that the significance and consequence of its waiver of *California Civil Code §1542* is that even if any Party should eventually suffer additional damages arising out of the obligation to repurchase and/or indemnify for losses associated with the LOANS, the claims and causes of action that were or could have been asserted relating to the obligation to the repurchase and/or indemnify for losses associated with the LOANS, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the LOANS, that Party will not be able to make any claim against the other Party for those damages. Furthermore, each Party acknowledges that it consciously intends these consequences even as to claims for damages that may exist as of the date of this release 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.

1.20 Each Party hereby fully, finally, and forever releases and discharges the other Party, and any and all of its respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, shareholders, independent contractors, predecessors, successors and assigns, 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, 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, and/or employees 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 obligation to repurchase and/or indemnify for losses associated with the LOANS, the claims and causes of action that were or could have been asserted relating to the obligation to repurchase and/or indemnify for losses associated with the LOANS, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the LOANS.

1.21 Notwithstanding any other provision in 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 any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intent 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 for 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.

1.22 Notwithstanding any other provision in 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 any claims against TJ FINANCIAL arising out of existing or failed financial institutions other than INDYMAC. In addition, the FDIC does not release the debt obligation(s) arising from any loan(s), if any, made by INDYMAC to employees, members, partners, joint venturers, independent contractors, attorneys, investors, successors, assigns, representatives, officers, directors or shareholders of TJ FINANCIAL.

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

1.24 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.

1.25 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.

1.26 Governing Law. The Parties agree to submit to the Courts of the City and County of Los Angeles, California, for any dispute arising out of this Settlement Agreement, or related thereto, and 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.

1.27 Attorneys' Fees. 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.

1.28 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.

1.29 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.

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

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.

For: **The Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB**

For: **T.J. Financial, Inc.**

By: _____

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By: _____

Name: Josh Duncan

Name: _____

Title: Counsel

Title: _____

Date: Nov. 12, 2010

Date: _____

For: **Tien-I Lee**

By: _____

Date: _____

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.

For: The Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB

By: _____

Name: _____

Title: _____

Date: _____

For: T.J. Financial, Inc.

By:  _____

Name: Tien-I Lee

Title: CEO

Date: 11/9/2010

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For: Tien-I Lee

By:  _____

Date: 11/9/2010

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