SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 30th day of November 2011 ("Effective Date"), by and among FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. and FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for WASHINGTON MUTUAL BANK (collectively "FDIC-R"), and DAVID A. KASHIFI ("KASHIFI"). The FDIC-R and KASHIFI may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 In September of 2004, KASHIFI purchased the two adjoining parcels [redacted] (b)(4),(b) (6) [redacted] Orinda, California) for $1,250,000. On May 24, 2007, KASHIFI entered into a Purchase & Sale Agreement with [redacted] for [redacted] (b)(4),(b) (6) [redacted] Property, [redacted] agreed to buy the [redacted] Property for $1.9 million. [redacted] (b)(4),(b) (6) [redacted] applied for and obtained two loans from Washington Mutual Bank, FA totaling $1,709,810. HAMMERSLY/PRESIDIO prepared an appraisal of the [redacted] Property to be used by the lender in connection with the mortgage finance transaction. (b)(4),(b) (6)

1.2 On May 24, 2007, KASHIFI entered into a Purchase & Sale Agreement to sell the [redacted] Property to [redacted] [redacted] agreed to purchase this unimproved lot for $870,000. Royal Kirkland prepared an appraisal of the [redacted] Property. The appraisal was submitted to IndyMac Bank FSB as part of the mortgage finance transaction. In reliance on the appraisal and additional information, IndyMac Bank, FSB funded a loan to [redacted] in the amount of $696,000. (b)(4),(b) (6) (b)(4),(b) (6) (b)(4),(b) (6)

1.3 No payments were made on the loans. The loans went into default and were foreclosed.

1.4 On or about April 30, 2010, the FDIC filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B., and FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for WASHINGTON MUTUAL BANK vs. ROYAL KIRKLAND, an individual; ACCURATE APPRAISAL SERVICES, type of entity unknown; DAVID A. KASHIFI, an individual; ROD HAMMERSLY, an individual; PRESIDIO APPRAISAL SERVICES, INC., a California corporation, and DOES 1 through 15, inclusive, Case No. 10-03286-GAF (PJWx) (hereinafter "Action").

1.5 The Action alleged that KASHIFI intended to defraud the lenders in connection with the sale of the [redacted] Property. (b)(4),(b) (6)

1.6 KASHIFI disputes and denies the FDIC-R's claims in the Action.

1.7 The Parties desire and have agreed to settle all claims relating to the Action.

2. 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:

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

2.2 Intentionally Blank.

2.3 Payment to the FDIC-R by KASHIFI. A total payment of One Hundred Thousand Dollars and no/cents ($100,000.00) shall be paid by KASHIFI to the FDIC-R as follows:

a. Payments shall be made by wire transfer payable to "Mortgage Recovery Law Group Trust Account," Account Number: [redacted] (b)(4)
(b)(4) Routing Number: [redacted] Reference: Kashifi Settlement. Payments shall be made according to the following schedule:

b. $25,000.00 shall be paid by KASHIFI on or before November 30, 2011;

c. $37,500.00 shall be paid by KASHIFI on or before April 27, 2012; and

d. $37,500.00 shall be paid by KASHIFI on or before October 24, 2012;

2.4 Concurrently with the signing and delivery of this Settlement Agreement, KASHIFI shall execute a Stipulation for Entry of Judgment in the amount of Five Hundred Thousand Dollars and no cents ($500,000.00) 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 (the "Judgment"). Both the Stipulation and Judgment are incorporated by reference herein and their terms made a part of this Settlement Agreement. The Judgment shall be non-dischargeable in bankruptcy. The Stipulation and Judgment shall be held in trust by FDIC-R's attorneys of record and shall not be filed unless KASHIFI breaches this Settlement Agreement, including any of the payments required by paragraph 2.3(a-d) above and fails to timely cure said breach pursuant to paragraph 2.6 after receiving notice of default as provided in paragraph 2.5. The Judgment (Pursuant to Stipulation) shall not be entered so long as KASHIFI performs under the terms of this Settlement Agreement with respect to making the payments required by paragraph 2.3(a-d) above.

2.5 In the event KASHIFI defaults by failing to make a timely payment to FDIC-R as set forth in paragraphs 2.3(a-d) above, FDIC shall give written notice of the

default and notice of its intent to enter Judgment (Pursuant to Stipulation) to KASHIFI via either U.S. mail, email or facsimile as follows: (1) 2058 Fostoria Circle, Danville,
(b)(6) CA 94526, email: [redacted] and (2) Alexander Floum, The Williams Firm, 1850 Mt. Diablo Blvd., Suite 340, Walnut Creek, CA 94596,
(b)(6) email: [redacted] facsimile: (925) 933-9810.

2.6 KASHIFI shall have ten (10) business days from receipt of the notice of default to cure the default. If KASHIFI fails to cure the default within ten (10) business days, FDIC-R shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment against KASHIFI and enforce said Judgment against KASHIFI. Judgment may be entered by ex parte application (without testimony or trial and KASHIFI further waive the right to a court and/or jury trial) with notice given to KASHIFI and Alexander Floum, Esq. by either mail, email or facsimile listed in paragraph 2.5 above.

2.7 Within five (5) business days of FDIC-R's counsel's receipt of the fully executed Settlement Agreement and Stipulation for Entry of Judgment, FDIC-R's counsel shall file a request for dismissal of the entire Action against KASHIFI with prejudice.

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

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

3. RELEASE

3.1 Known and Unknown Claims. The FDIC-Rand KASHIFI acknowledge and agree that the release they give to each other upon executing 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 they may have against each other arising from or in
(b)(4),(b) conjunction with the Action relating to the [redacted] Property.
(6)

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action. The Parties certify 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.

3.3 The Parties understand and acknowledge that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with the Action relating to the [redacted] Property or any facts or circumstances related to the Action relating to the [redacted] Property, that Party will not be able to make any claim against any other Party for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release relating to the Action, 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.

(b)(4),(b)
(6)
(b)(4),(b)
(6)

3.4 Except for the rights, duties, and obligations set forth in this Settlement Agreement and Stipulation for Entry of Judgment, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, 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 and/or agents, 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, employees and/or agents 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, to any damages, loss, or liability arising from or in conjunction with the Action relating to the [redacted] Property.

(b)(4),(b)
(6)

3.5 Notwithstanding any other provision of this Settlement Agreement and Stipulation for Entry of Judgment, 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 HAMMERSLY, PRESIDIO and KASHIFI arising out of any other transactions or appraisals (other than set forth in the Action) and arising out of any other existing or failed financial institutions other than WASHINGTON MUTUAL BANK, FA and INDYMAC BANK, FSB.

3.6 Notwithstanding any other provision, by this Settlement Agreement, the FDIC-R does not release any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend 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 in any federal judicial district.

3.7 **Representations and Warranties Regarding No Legal Remedies.** As consideration and inducement for this Agreement, FDIC-R represents and warrants to

KASHIFI that, except for the Action, and except as required by law: it has not commenced any actions at law or in equity or before any governmental authority concerning the matters set forth in Article 1 entitled Recitals or otherwise arising at any time from the relationship between the Parties; that FDIC-R is unaware of any actions at law or in equity or by or before any governmental authority now pending against KASHIFI which would in any way relate to the matters set forth in the Recitals of this Agreement or otherwise arising with respect to the matters set forth in the Action; and that the FDIC-R has not initiated any actions, other than the Action, has not referred to any other agency any claims, actions or complaints against KASHIFI, and does not intend to initiate or refer to any other agency, any claims, actions or complaints against KASHIFI.

3.8 **Payment by Kashifi to FDIC-R.** It is expressly agreed among the Parties that the payment of these sums under this Agreement by KASHIFI and the other consideration provided in this Agreement are the full, complete and sole satisfaction of any and all sums allegedly owed by KASHIFI to FDIC-R arising from the disputes described in the Recitals set forth in Article 1 of this Agreement or otherwise arising at any time from the relationship among the Parties regarding the matters set forth in the Action.

3.9 **No Admission of Liability.** The Parties agree that the payment of these sums and the mutual releases by the Parties constitutes the compromise and settlement of disputed claims by and among the Parties, and that the execution of this Agreement and the payment of any sums provided for herein does not constitute an admission of liability by any Party.

4. MISCELLANEOUS

4.1 Conditions of Execution. Each Party acknowledges and warrants that its execution of this Settlement Agreement and Stipulation for Entry of Judgment is free and voluntary.

4.2 No Admission. It is agreed that no Party hereto admits liability or wrongdoing of any nature, and that this Settlement Agreement and Stipulation for Entry of Judgment is made as a compromise of disputed claims.

4.3 Fair Meaning. The Parties hereto further agree that the language of all parts of this Settlement Agreement and Stipulation for Entry of Judgment shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties.

4.4 Governing Law. The Parties agree to submit to the Central District of 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.

4.5 Attorneys Fees and Costs. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement and Stipulation for Entry of Judgment, 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.

4.6 Severability. The Parties hereto agree that if any provision of this Settlement Agreement or Stipulation for Entry of Judgment 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 and Stipulation for Entry of Judgment.

4.7 Binding Effect. This Settlement Agreement and Stipulation for Entry of Judgment shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors, and assigns.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement and Stipulation for Entry of Judgment voluntarily, having fully read and fully understood 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 Stipulation for Entry of Judgment and has conducted such inquiry as they deem necessary and advisable prior to entering into this Settlement Agreement and Stipulation for Entry of Judgment. The Parties enter into this Settlement Agreement and Stipulation for Entry of Judgment 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.

4.9 Number. Whenever applicable, the singular shall include the plural, and the plural shall include the singular.

4.10 Counterparts/Execution. This Settlement Agreement and Stipulation for Entry of Judgment may be executed in one or more counterparts, all of which shall form a single agreement. A Party's signature on this Settlement Agreement and Stipulation for Entry of Judgment by facsimile or e-mail shall be valid and effective for all purposes as an original signature, provided, however, that the original signature shall be produced upon request.

4.11 Waiver. No term or condition of this Settlement Agreement and Stipulation for Entry of Judgment shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Settlement Agreement

and Stipulation for Entry of Judgment, except by written instruments signed by the Party charged with the waiver or estoppel. No written waiver shall be deemed a continuing waiver unless specifically stated therein, and the written waiver shall operate only as to the specific term or condition waived, and not for the future or as to any other act than that specifically waived.

4.12 Headings. The headings of paragraphs herein are intended solely for the convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Settlement Agreement and Stipulation for Entry of Judgment.

4.13 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement and Stipulation for Entry of Judgment, including such instruments as may be required by the laws of any jurisdiction, now in effect or hereinafter enacted, that may affect the rights of the Parties as between themselves or others with respect to their rights and obligations created by this Settlement Agreement and Stipulation for Entry of Judgment.

4.14 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement and Stipulation for Entry of Judgment sets forth the entire agreement between and among the Parties and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement Agreement and Stipulation for Entry of Judgment shall not be modified except in a writing signed by the Parties or their authorized representatives.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have executed this Settlement Agreement and Stipulation for Entry of Judgment as of the date set forth in the opening paragraph of this Settlement Agreement.

(b)(6)

DATED: November 29, 2011 By: [redacted]

DAVID A. KASHIFI

DATED: November 29, 2011 THE WILLIAMS FIRM

(b)(6)

(b)(6)

APPROVED AS TO FORM

By: _____

D. Alexande[illegible]m
Attorneys f[illegible]endant,
DAVID A[illegible]HIFI

(b)(6)

DATED: November 30th, 2011

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. and FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for WASHINGTON MUTUAL BANK

By: [redacted] (b)(6)

Signature

Richard S. Gill, Counsel

Type/Print Name and Title

DATED: November 30, 2011

ANDERSON, McPHARLIN & CONNERS LLP [redacted] (b)(6)

(b)(6) APPROVED AS TO FORM

(b)(6) [redacted] (b)(6)

(b)(6)

V[redacted]ESS[redacted] WIDENER

A[redacted]ncy[redacted] Plaintiffs,

F[redacted]ERA[redacted]POSIT INSURA[redacted]CORPORATION as Receiver for INDYMAC BANK, F.S.B. and FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for WASHINGTON MUTUAL BANK