

CAUSE 2007-47763

THE FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC FEDERAL BANK, FSB	§	IN THE DISTRICT COURT OF
	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
COMMONWEALTH LAND TITLE INSURANCE CORPORATION; VISION TITLE COMPANY, ET AL	§	270 TH JUDICIAL DISTRICT
	§	

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement is made by Plaintiff Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB and all of its affiliates, assigns, agents, representatives, insurers, lien-holders, subrogees, predecessors and successors in interest and, where made expressly applicable, attorneys ("Plaintiff") in favor of Defendants Secure Financial Services, Inc. d/b/a Secure Mortgage Company, Vision Title LLC, Lisa Ross, Lisa Ross & Associates, Steadfast Insurance Company, St. Paul Travelers Companies, Inc., and all of their partnerships, corporations, officers, directors, shareholders, partners, employees, heirs, affiliates, assigns, agents, representatives, insurers, lien-holders, attorneys, and predecessors and successors in interest ("Defendants") (collectively the "Parties").

WHEREAS, on July 11, 2008, IndyMac Bank, FSB ("IndyMac") filed the above-entitled lawsuit, styled *IndyMac Bank, FSB and IndyMac Bank, FSB d/b/a Construction Lending Corporation of America v. Commonwealth Land Title Insurance Company, Vision Title LLC, Boehck Mortgage Company, Jimmy Blacklock, Michael A. Moten, Lisa Ross & Associates, Lisa Ross, TX Appraisals, C.D. Pearson & Associates, Kelvin McGowan, Lionel Parker Jr., Raju Murjani, and Howard Duplechain, Jr.*; in the 270th Judicial District Court of Harris County, Texas; Cause No. 2007-47763 (the "Lawsuit").

WHEREAS, after IndyMac filed the lawsuit, the Office of Thrift Supervision ("OTS") closed IndyMac, and the FDIC was appointed as IndyMac's receiver. Also on July 11, 2008, a new institution, IndyMac Federal Bank, FSB ("IndyMac Federal"), was chartered, and all of the insured deposits and substantially all of the assets of IndyMac were transferred to IndyMac Federal. IndyMac Federal was then placed into conservatorship, and the FDIC was appointed as conservator.

WHEREAS, on December 30, 2008, Plaintiff filed a notice of substitution wherein it requested that the FDIC, as conservator for IndyMac Federal, be substituted as Plaintiff in this lawsuit in place of IndyMac. On January 29, 2009, Plaintiff, the FDIC as conservator for IndyMac Federal, filed an Amended Original Petition and Request for Disclosure and became the Plaintiff in the Lawsuit.

WHEREAS, On March 19, 2009, the OTS replaced the FDIC as conservator with the FDIC as receiver for IndyMac Federal pursuant to 12 U.S.C. § 1464(d)(2)(C) and appointed the receiver pursuant to 12 U.S.C. § 1464(d)(2) and 12 U.S.C. §§ 1821(c)(5) and (c)(6)(B).

WHEREAS, The FDIC as receiver stands in the shoes of IndyMac Federal to perform all functions of the institution in the name of the institution, including prosecution and settlement of this Lawsuit.

WHEREAS, in the Lawsuit, Plaintiff alleged various claims and causes of action against Vision Title LLC, Lisa Ross, and Lisa Ross & Associates arising from their alleged failure to exercise ordinary care in two closing transactions ("the Closing Transactions") for residential

(b)(6) real estate properties located at [redacted] Richmond, Texas and [redacted] (b)(6)
(b)(6) [redacted] Houston, Texas (referred to collectively as "the Properties");

WHEREAS, in the Lawsuit, Plaintiff further alleged that Vision Title LLC, Lisa Ross, and Lisa Ross & Associates' alleged failure to exercise ordinary care in the Closing Transactions caused Plaintiff damages when the buyers for the Properties defaulted on the loans that Plaintiff issued for the purchase of these Properties;

WHEREAS, Lisa Ross and Lisa Ross & Associates have alleged various claims and causes of action against Secure Financial Services, Inc. d/b/a Secure Mortgage Company arising from its alleged failure to exercise ordinary care in supervising its employee who sent allegedly fraudulent loan documents to the Plaintiff prior to the Closing Transactions for the Properties;

WHEREAS, Vision Title LLC, Lisa Ross, and Lisa Ross & Associates have alleged various cross claims and causes of action against each other arising from the Closing Transactions and the Properties, including but not limited to claims for contribution and indemnity;

WHEREAS, Defendants have denied all of Plaintiff's claims and allegations in their entirety, and Vision Title LLC, Lisa Ross, Lisa Ross & Associates, Secure Financial Services, Inc. d/b/a Secure Mortgage Company have denied all cross claims, third party claims, and allegations that they bring against each other in their entirety;

WHEREAS, there is considerable doubt, disagreement, and controversy regarding the claims and damages alleged by the Parties against each other in the Lawsuit;

WHEREAS, the Parties desire to enter into a compromise agreement regarding all matters related to the Lawsuit, and all unasserted but potential matters of controversy or disputes that the Parties brought or could have been brought against each other that relate in any way to the facts and/or incidents giving rise to Plaintiff's claims against Defendants in the Lawsuit as well as any and all potential future claims, filings and disputes among the Parties that in any way arise from or are relate to the Lawsuit;

WHEREAS, Defendants expressly deny any liability to Plaintiff or to each other, and the consideration described below is not to be construed as an admission of liability by Defendants;

Therefore, in consideration of the mutual promises and benefits expressed below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the Parties voluntarily and knowingly execute this Settlement and Release Agreement (the "Agreement") with the express intent of extinguishing the herein designated rights, claims, and obligations.

1. Consideration. In consideration of the release and indemnity provisions set forth in this Agreement and with the understanding by the Parties that no portion of the total sum set forth below constitutes exemplary or punitive damages, Defendants shall tender payments to Plaintiff in the total present value amount of THREE HUNDRED THOUSAND AND 00/100 DOLLARS (\$300,000.00) in full and final settlement of all claims and causes of action in the Lawsuit (the "Settlement Amount"), out of which Plaintiff is to bear all of its expenses, attorneys' fees, costs and liens. The "Settlement Amount" will be paid as follows:

a. By August 15, 2009, Lisa Ross, Lisa Ross & Associates, and/or their insurer shall cause a certified check in the amount of TWO HUNDRED AND FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00) to be issued to the Locke Liddell Lord & Bissell Trust Account, and delivered to Plaintiff, by and through its attorney of record, Robert Mowrey, Locke Lord Bissell & Liddell LLP, 2200 Ross Avenue, Suite 2200, Dallas, Texas 75201.

b. Likewise, by August 15, 2009, Vision Title LLC and/or its insurer shall cause a certified check in the amount of EIGHTY THOUSAND AND 00/100 DOLLARS (\$80,000.00) to be issued to the Locke Lord Bissell & Liddell LLP Trust Account, and

delivered to Plaintiff, by and through its attorney of record, Robert Mowrey, Locke Lord Bissell & Liddell LLP, 2200 Ross Avenue, Suite 2200, Dallas, Texas 75201.

c. Likewise, by August 30, 2009, Secure Financial Services, Inc. d/b/a Secure Mortgage Company shall cause a certified check in the amount of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) to be issued to the Locke Lord Bissell & Liddell LLP Trust Account, and delivered to Plaintiff, by and through its attorney of record, Robert Mowrey, Locke Lord Bissell & Liddell LLP, 2200 Ross Avenue, Suite 2200, Dallas, Texas 75201.

2.1 Full and Final Release. In consideration of, among other things, the Settlement Amount, the adequacy and receipt of which is hereby acknowledged, Plaintiff with the intention of binding itself and all of its affiliates, assigns, agents, representatives, conservators, insurers, lien-holders, subrogees, attorneys, and predecessors and successors in interest, does hereby expressly **RELEASE, ACQUIT and FOREVER DISCHARGE** Defendant Vision Title LLC, Defendant Secure Financial Services, Inc. d/b/a Secure Mortgage Company, Defendant Lisa Ross, Defendant Lisa Ross & Associates, and all of their owners, partnerships, corporations, officers, directors, shareholders, partners, employees, heirs, affiliates, assigns, agents, representatives, insurers, lien-holders, attorneys, and predecessors and successors in interest from any and all claims, rights, causes of action, actions, demands and damages of any kind, known or unknown, existing or arising in the future, that were asserted or could have been asserted by Plaintiff against these Defendants pertaining to the Closing Transactions made the basis of the Lawsuit. This Full and Final Release extends to all past, present, and future actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation, third party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all consequential damage on account of, or in any way growing out of, any

and all known and unknown injuries or damages arising out of the Closing Transactions for the Properties and the events and activities described in the Lawsuit. In exchange for the above-referenced consideration, Plaintiff agrees to direct its counsel to stipulate to the dismissal with prejudice of the Lawsuit as to these Defendants, each party to bear its own attorneys' fees and costs in connection therewith. By this Settlement Agreement, Plaintiff does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed, any claims or causes of action that do not arise from or relate to the Lawsuit, Closing Transaction, or the Properties.

2.2 Defendants Lisa Ross and Lisa Ross & Associates, with the intention of binding itself and their attorneys and predecessors and successors in interest, do hereby expressly **RELEASE, ACQUIT and FOREVER DISCHARGE** Plaintiff, Defendant Secure Financial Services, Inc. d/b/a Secure Mortgage Company, Defendant Vision Title LLC, and all of their attorneys and predecessors and successors in interest from any and all claims that were asserted or could have been asserted by Lisa Ross and Lisa Ross & Associates against these Parties pertaining to the Closing Transactions made the basis of the Lawsuit. This Full and Final Release extends to all past, present, and future actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation, third party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all consequential damage on account of, or in any way growing out of, any and all known and unknown economic injuries or damages arising out of the Closing Transactions for the Properties and the events and activities described in the Lawsuit.

2.3 Defendant Vision Title LLC, with the intention of binding itself and its attorneys and predecessors and successors in interest, does hereby expressly **RELEASE, ACQUIT and FOREVER DISCHARGE** Plaintiff, Defendant Secure Financial Services, Inc. d/b/a Secure Mortgage Company, Defendant Lisa Ross, Defendant Lisa Ross & Associates, and all of their

attorneys and predecessors and successors in interest from any and all claims that were asserted or could have been asserted by Vision Title LLC against these Parties pertaining to the Closing Transactions made the basis of the Lawsuit. This Full and Final Release extends to all past, present, and future actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation, third party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all consequential damage on account of, or in any way growing out of, any and all known and unknown economic injuries or damages arising out of the Closing Transactions for the Properties and the events and activities described in the Lawsuit.

2.4 Defendant Secure Financial Services, Inc. d/b/a Secure Mortgage Company, with the intention of binding itself and its attorneys and predecessors and successors in interest, does hereby expressly **RELEASE, ACQUIT and FOREVER DISCHARGE**, Plaintiff, Defendant Vision Title LLC, Defendant Lisa Ross, Defendant Lisa Ross & Associates, and all of their attorneys and predecessors and successors in interest from any and all claims that were asserted or could have been asserted by Secure Financial Services, Inc. d/b/a Secure Mortgage Company against these Parties pertaining to the Closing Transactions made the basis of the Lawsuit. This Full and Final Release extends to all past, present, and future actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation, third party actions, suits at law or in equity, including claims or suits for contribution and/or indemnity, of whatever nature, and all consequential damage on account of, or in any way growing out of, any and all known and unknown economic injuries or damages arising out of the Closing Transactions for the Properties and the events and activities described in the Lawsuit.

2.5 The Parties understand and agree that the payment of the Settlement Amount is not to be construed as an admission of liability on the part of any of the Parties, liability therefore being expressly denied, but is the compromise and settlement of disputed and unliquidated

claims. The Parties also understand and agree that they are releasing not only the claims regarding damages and injuries now known, and regarding any damages, injuries or consequential damages that may develop in the future from said existing damages, but also any additional damages thereof that may arise, directly or indirectly, from the aforementioned Lawsuit, Closing Transactions, and Properties, whether related or unrelated to the presently existing damages, even though at the present time said additional damages are completely unknown and unsuspected. The Parties further understand and agree that the amount received in exchange for this release is accepted not only for the damages that are now, or in the future may be claimed to have resulted from the Closing Transactions, but is also accepted to avoid the uncertainty, expense, and delay of continuing the Lawsuit.

2.6 The release and other agreements made in this Section 2 are, however, conditioned upon and shall not be effective until (i) the Parties fully execute and acknowledge this Agreement; and (ii) payment of the Settlement Amount has been made.

3. Representations, Warranties and Acknowledgements. Plaintiff specifically warrants and represents that, prior to the execution of this Agreement, it has not assigned, mortgaged or transferred to any person or entity, all or any portion of the claims or causes of action released herein. Additionally, Plaintiff represents that all outstanding liens, if any, arising by, through or under Plaintiff, have now, or will be, satisfied upon settlement of this matter.

4. Materiality. The Parties understand and acknowledge that all of the conditions and obligations in this Agreement are material.

5. Binding Effect. The Parties understand that this Agreement contains the entire agreement between the Parties, and agree that the terms of this Agreement are contractual and not a mere recital. In executing the Agreement, the Parties agree that they have not relied upon any statement, representation, or action of any other Party. The Parties understand and agree that the covenants contained herein shall be binding upon themselves and, where applicable, their

respective representatives, agents, conservators, insurers, executors, administrators, successors, assigns, subrogees, heirs and their respective attorneys.

6. Invalidity. In the event that any one or more of the provisions of this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it is agreed that such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

7. Governing Law. The laws of the State of Texas shall govern the validity, effect and construction of this Agreement.

8. Amendment. This Agreement may not be amended, modified, waived or terminated orally or discharged unless by a writing signed by all parties to be bound to such amendment or modification.

9. Construction of Agreement. It is intended that this Agreement shall be comprehensive in nature and shall be construed liberally to effect its purposes.

10. Headings. Article and Section headings used in this Agreement are for convenience only and shall not affect the construction.

11.1 Warranty of Understanding. Plaintiff has read this Agreement and has had the terms explained to it by Plaintiff's attorney, and warrants that Plaintiff understands all of the terms contained in same. Plaintiff further warrants that the Plaintiff's representative that signs the Agreement is of legal age, sound mind, legally competent, and expressly authorized by the Plaintiff to execute this Agreement, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its significance after consultation with counsel. It is specifically agreed and understood that no agent or representative of Defendants, nor anyone else acting on their behalf, have made any promises or representations regarding this case and settlement which are not expressly stated in this Agreement.

11.2 It is fully understood by the Parties that this Agreement is made in full compromise, resolution and settlement of disputed claims, and that such full compromise, resolution and settlement and this Agreement shall not be taken as an admission of liability of any kind or character by any such party, but rather such liability is expressly denied.

11.3 This Agreement is executed and shall be binding upon Parties from and after the date of the acknowledgements below.

12. Multiple Counterparts. This Agreement is executed by the Parties hereto in multiple originals, any of which shall constitute an original agreement.

**[This space is left intentionally blank so that the Acknowledgements
and notarized signatures of the Parties may follow on Pages 11-14]**

ACKNOWLEDGEMENT

I am an authorized representative of The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB. I have read the foregoing Full and Final Settlement and Release Agreement, understand its terms and understand that by signing below, The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB hereby gives up any right to file or prosecute claims against Vision Title LLC, Lisa Ross, Lisa Ross & Associates, Steadfast Insurance Company, St. Paul Travelers Companies, Inc., and Secure Financial Services, Inc. d/b/a Secure Mortgage Company relating to the Lawsuit, the Closing Transactions, or the Properties; any and all claims that were or might have been brought against these Parties in connection with the facts and/or incidents upon which The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB bases its claims in the Lawsuit; as well as any and all potential future claims, filings and disputes among the Parties that arose during the pendency of this Lawsuit and that relate in any way to the Lawsuit, the Closing Transactions, or the Properties.

(b)(6)

By:
Printed Name: *JOCK S. DUNCAN*
Authorized Representative of Federal Deposit Insurance Corp., as Receiver for IndyMac Federal Bank FSB

STATE OF CALIFORNIA
COUNTY OF ORANGE

§
§
§
§

This instrument was acknowledged before me on this the ____ day of _____ 2009, by _____, authorized representative of The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB.

Notary Public – State of California

Printed Name: _____
Commission Expires: _____

** See attached.*

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

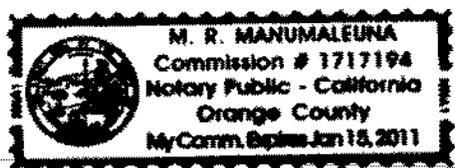
County of Orange

On 9/28/2009 before me, M.R. Manumaleuna
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jock S. Duncan
Name(s) of Signer(s)

- personally known to me
- (or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal

Signature of Notary Public

(b)(6)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document
 Title or Type of Document: Acknowledgement of Settlement and Release Agreement

Document Date: 9/28/2009 Number of Pages: signature pg. 11 (14)

Signer(s) Other Than Named Above: NONE.

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jock S. Duncan
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: Authorized Representative
 Signer Is Representing: FDIC, as Receiver of IndyMac Federal Bank, FSB.



Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____
 Signer Is Representing: _____



Settlement and Release Agreement

ACKNOWLEDGEMENT

I am an authorized representative of Vision Title LLC. I have read the foregoing Full and Final Settlement and Release Agreement, understand its terms and understand that by signing below, Vision Title LLC hereby gives up any right to file or prosecute claims against The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB, Lisa Ross, Lisa Ross & Associates, Steadfast Insurance Company, and Secure Financial Services, Inc. d/b/a Secure Mortgage Company relating to the Lawsuit, the Closing Transactions, or the Properties; any and all claims that were or might have been brought against these Parties in connection with the facts and/or incidents upon which The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB and/or Vision Title LLC bases its claims in the Lawsuit; as well as any and all potential future claims, filings and disputes among the Parties that arose during the pendency of this Lawsuit and that relate in any way to the Lawsuit, the Closing Transactions, or the Properties. Additionally, I certify that I understand the indemnities and/or warranties that I have made in this Settlement and Release Agreement.

(b)(6)

By: _____

Printed Name: CHARLES A. BIXLER
Authorized Representative of Vision Title LLC

STATE OF TEXAS

COUNTY OF HARRIS

001402-008

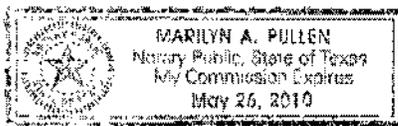
This instrument was acknowledged before me on this the 3 day of SEPTEMBER 2009, by CHARLES A. BIXLER, authorized representative of Vision Title LLC.

(b)(6)

Notary Public - State of Texas

(b)(6)

Printed Name: MARILYN A. PULLEN
Commission Expires: 5-26-10



SEP-03-2009 12:24

UISION TITLE

7137397475

P. 14

Settlement and Release Agreement

ACKNOWLEDGEMENT

I, Lisa Ross, an authorized representative of Lisa Ross & Associates. I have read the foregoing Full and Final Settlement and Release Agreement, understand its terms and understand that by signing below, both Lisa Ross, individually and as authorized representative of Lisa Ross & Associates, hereby gives up any right to file or prosecute claims against The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB, Vision Title, LLC and Secure Financial Services, Inc. d/b/a Secure Mortgage Company relating to the Lawsuit, the Closing Transactions, of the Properties, any and all claims that were or might have been brought against these Parties in connection with the facts and/or incidents upon which The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB, Lisa Ross, and/or Lisa Ross & Associates, bases their claims in the Lawsuit, as well as any and all potential future claims, filings and disputes among the Parties that arise during the pendency of this Lawsuit and that relate in any way to the Lawsuit, the Closing Transactions, or the Properties. I certify that I understand the indemnities and/or warranties that I have made in this Settlement and Release Agreement.

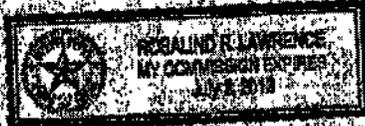
By: 
 Lisa Ross, individually and as authorized representative of Lisa Ross & Associates

STATE OF TEXAS
 COUNTY OF HARRIS

This instrument was acknowledged before me on this the 2nd day of October, 2009, by Lisa C. Ross, authorized representative of Lisa Ross & Associates.



Notary Public - State of Texas
 Printed Name: Rosalind K. Lawrence
 Commission Expires: 7-2-13



(b)(6)

(b)(6)

ACKNOWLEDGEMENT

I am an authorized representative of Secure Financial Services, Inc. d/b/a Secure Mortgage Company. I have read the foregoing Full and Final Settlement and Release Agreement, understand its terms and understand that by signing below, Secure Financial Services, Inc. d/b/a Secure Mortgage Company hereby gives up any right to file or prosecute claims against The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB, Vision Title LLC, Steadfast Insurance Company, St. Paul Travelers Companies, Inc., Lisa Ross, and/or Lisa Ross & Associates relating to the Lawsuit, the Closing Transactions, or the Properties; any and all claims that were or might have been brought against these Parties in connection with the facts and/or incidents upon which The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank FSB bases its claims in the Lawsuit; as well as any and all potential future claims, filings and disputes among the Parties that arose during the pendency of this Lawsuit and that relate in any way to the Lawsuit, the Closing Transactions, or the Properties. Additionally, I certify that I understand the indemnities and/or warranties that I have made in this Settlement and Release Agreement.

(b)(6)

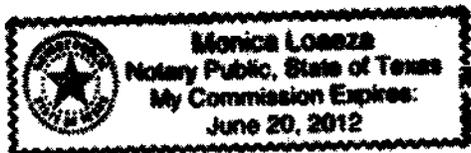
By:
Printed Name: MICHAEL L. GALE
Authorized Representative of Secure Financial Services,
Inc. d/b/a Secure Mortgage Company

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this the 21st day of September 2009, by Michael L. Gale, authorized representative of Secure Financial Services, Inc. d/b/a Secure Mortgage Company.

(b)(6)

(b)(6)



Notary Public - State of Texas
Printed Name: Monica Loeza
Commission Expires: June 20, 2012