

ENTERED  
12/19/09

LIMS Mr [redacted]  
DIP/Mortgage Fraud

12/19/09

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release ("Agreement") is entered into by and between IndyMac Bancorp, Inc., on its own behalf and on behalf of all of its subsidiaries including IndyMac Bank (collectively referred to as "IndyMac"), on the one hand, and Those Certain Underwriters at Lloyd's, London severally subscribing to Mortgage Bankers Bond Insurance Policy No. 509/QA 009005 (collectively referred to as "Underwriters"), on the other hand.

**RECITALS**

(b)(4)

A. Underwriters issued Mortgage Bankers Bond Insurance Policy No. [redacted] ("the Bond") to IndyMac. As set forth in the Schedule of the Bond, the Bond Period is from March 1, 2005 to March 1, 2006. The Limit of Indemnity under Insuring Clause A1 [Dishonesty] of Section A [Fidelity/Crime] of the Bond is \$20,000,000 any one loss and in the aggregate, with a \$500,000 deductible each and every loss.

(b)(4)

B. By email dated August 24, 2005, Marsh Los Angeles provided notice to Marsh London that IndyMac was investigating wrongdoing on the part of a closing agent who closed several loans but did not disburse the loan funds. After Underwriters granted several extensions of time to IndyMac to submit a proof of loss, by letter dated July 6, 2006 to counsel for Underwriters, IndyMac submitted a Proof of Loss alleging coverage under Insuring Clause A1(c) [Dishonesty] of Section A [Fidelity/Crime] of the Bond for loss caused by LaMattina & Associates ("LMA"). Joseph LaMattina and other employees, officers and directors of LaMattina & Associates with respect to six loan transactions. LMA purported to be a law firm with offices in Nassau County, New York providing settlement and closing agent services to lenders for residential real estate loan transactions. Pursuant to information provided by LMA, IndyMac wire-transferred loan funds for the six loan transactions into an LMA bank account at Victory State Bank ("the LMA account"). The loss, in the total amount of \$1,817,041.32, arose from misappropriations of IndyMac loan funds for the six loans from the LMA account. On or about September 12, 2006, IndyMac received a return of funds of \$172,697.16, making the total loss amount claimed by IndyMac to be \$1,644,344.16. (The above-noted Proof of Loss and all documents and information submitted by IndyMac in support of the loss claimed are collectively referred to as "the Bond Claim" and are hereby incorporated by reference as though fully set forth herein.)

C. On or about August 25, 2005, IndyMac filed a recovery action in New York state court against LMA and others to recover for its loss relating to the six loan transactions ("the recovery action"). IndyMac has obtained liens on several pieces of property in which one or more of the defendants have an ownership interest, as well as cash from a bank account of Prelude Abstract, one of the companies used by the defendants to launder funds stolen from IndyMac. IndyMac has incurred attorneys' fees, costs and expenses in the recovery action.

D. Underwriters have conducted an investigation of the Bond Claim and the parties have engaged in settlement discussions concerning the Bond Claim. IndyMac and Underwriters

desire to settle and resolve the disputes and differences which exist or may exist between them that are based upon the Bond Claim, as set forth herein.

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement and other good and sufficient consideration, the parties hereto agree as follows:

1. Incorporation of Recitals.

The Recitals to this Agreement are incorporated and made a part hereof.

2. Payment.

Within ten (10) days after the execution of this Agreement by IndyMac, Underwriters will pay to IndyMac the total sum of \$1,144,344.16 (One Million One Hundred Forty-Four Thousand Three Hundred Forty-Four Dollars and Sixteen Cents) by check made payable to "IndyMac Bancorp, Inc." or by wire transfer to an account designated in writing by IndyMac.

3. Release.

A. Claim Release by IndyMac.

In consideration of the payment described in Paragraph 2 of this Agreement, and conditioned upon the receipt of such payment by IndyMac, and except for any obligations expressly created by this Agreement, IndyMac, on behalf of itself and its directors, officers, agents, predecessors, successors, assignees, subsidiaries, attorneys, and affiliates, hereby releases and absolutely discharges Underwriters and their directors, officers, agents, predecessors, successors, assignees, insurers, attorneys, employees, subsidiaries, affiliates, and each of them, from any and all claims, demands, damages, debts, losses, liabilities, attorneys' fees, costs, expenses, and all other claims for relief of whatever kind or nature, known and unknown, suspected and unsuspected, whether in the past, present or future, and whether based upon the Bond, any other insurance policy or bond issued by Underwriters, or any contract, tort, statute or other legal or equitable theory of recovery, based upon, arising out of or related to:

- (a) the losses and circumstances alleged in the Bond Claim and all matters referred to in Recitals B through D of this Agreement;
- (b) any obligation to pay any amounts of loss incurred by IndyMac as a result of the Bond Claim and all matters referred to in Recitals B through D of this Agreement;
- (c) the investigation, handling or any other conduct by or on behalf of Underwriters arising out of or related to the Bond Claim and the settlement described in this Agreement, including any negotiations leading to such settlement;
- (d) interest of any sort with respect to any amounts of loss incurred by IndyMac as a result of the Bond Claim and all matters referred to in Recitals B through D of this Agreement;

- (e) attorneys' fees, costs and expenses of any sort incurred by IndyMac in pursuing coverage under the Bond for the losses claimed in the Bond Claim and all matters referred to in Recitals B through D of this Agreement;
- (f) any and all claims under any state or federal statute, regulation or common law for unfair claims handling practices, fraud, breach of an implied covenant of good faith and fair dealing, punitive damages, any type of insurance "bad faith" and any form of equitable relief with respect to: (i) any losses claimed by IndyMac in the Bond Claim, the settlement described in this Agreement and all matters referred to in Recitals B through D of this Agreement; and (ii) the investigation, handling or any other conduct by or on behalf of Underwriters arising out of or related to the Bond Claim and the settlement described in this Agreement, including all negotiations between the parties concerning the Bond Claim, the settlement described in this Agreement, and the matters referred to in Recitals B through D of this Agreement; and
- (g) to the extent not described in subparagraphs (a) through (f) of this Paragraph 3, all matters referred to in Recitals B through D of this Agreement.

**B. Claim Release by Underwriters.**

In consideration of the payment described in Paragraph 2 of this Agreement, and conditioned upon the receipt of such payment by IndyMac, and except for any obligations expressly created by this Agreement, Underwriters, on behalf of themselves and their directors, officers, agents, predecessors, successors, assignees, subsidiaries, attorneys, and affiliates, hereby release and absolutely discharge IndyMac and its directors, officers, agents, predecessors, successors, assignees, insurers, attorneys, employees, subsidiaries, affiliates, and each of them, from any and all claims, demands, damages, debts, losses, liabilities, attorneys' fees, costs, expenses, and all other claims for relief of whatever kind or nature, known and unknown, suspected and unsuspected, whether in the past, present or future, and whether based upon the Bond, any other insurance policy or bond issued by Underwriters, or any contract, tort, statute or other legal or equitable theory of recovery, based upon, arising out of or related to the Bond Claim.

**4. Waiver of Unknown Claims.**

Each party to this Agreement acknowledges that it has been given the opportunity to be informed by legal counsel of its choice and is aware of the provisions of California Civil Code Section 1542 and does expressly waive and relinquish all rights and benefits which it has or may have had under said section and any other statute or common law principle of similar effect with respect to the matters released in Paragraph 3 of this Agreement. Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT  
TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING  
THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE

MATERIALLY AFFECTED HIS SETTLEMENT WITH THE  
DEBTOR.

Each party has had the opportunity to be advised by legal counsel of its choice as to this waiver and further understands and acknowledges the significance and consequences of specific waiver of Section 1542 and hereby assumes full responsibility for any damages or losses sustained by it of any sort or nature that might otherwise have been or be assertable as claims with respect to the matters released in Paragraph 3 of this Agreement. Each party acknowledges that it is aware that it may later discover facts in addition to or different from those which it now has or believes to be true with respect to the Bond Claim, but that it intends hereby fully, finally and forever to settle and release all released matters, known or unknown, suspected or unsuspected, which now exist, may exist or previously existed between IndyMac and Underwriters with respect to the matters released in Paragraph 3 of this Agreement. In furtherance of such intention, the releases given in Paragraph 3 of this Agreement shall be, and shall remain, in effect as full and complete releases to the extent of their provisions, notwithstanding the discovery or existence of any such additional or different facts.

5. Recovery Efforts.

(a) As further consideration for the payment by Underwriters described in Paragraph 2 of this Agreement, IndyMac hereby assigns to Underwriters all of its rights, title and interest and causes of action against any person or entity on account of the matters described in Recitals B through D of this Agreement but only to the extent of the payment set forth in Paragraph 2 of this Agreement, including without limitation all rights and causes of action in connection with the recovery efforts currently being pursued by IndyMac as described in Recital C to this Agreement and the recovery action.

(b) IndyMac and Underwriters agree to cooperate in the pursuit of such recovery efforts, including joint retention of the counsel currently retained by IndyMac at the current hourly rates to pursue such recovery efforts, and to cooperate with regard to IndyMac's defense to any counterclaims asserted against it in the recovery action, such as the counterclaims filed by Vincent Ancona and Victory State Bank. While Underwriters participate in such recovery efforts, they shall be responsible for paying the reasonable attorneys' fees, costs and expenses of such recovery efforts, including the defense of counterclaims, incurred following the payment described in Paragraph 2 of this Agreement.

(c) IndyMac will provide to Underwriters' counsel, or cause to be provided, copies of the invoices for attorneys' fees, costs and expenses incurred in the recovery action.

(d) Underwriters retain the right, to be exercised in their sole discretion, to withdraw from the pursuit of any recovery efforts at any time and upon such withdrawal, Underwriters shall not be responsible for payment of any further attorneys' fees, costs and expenses of recovery efforts.

(e) In the event of any actual recoveries, IndyMac shall first be entitled to reimbursement of those reasonable attorneys' fees, costs, and expenses incurred in the recovery action (excluding, however, IndyMac's own employee costs) up to the time Underwriters' began

paying such fees, costs and expenses pursuant to Paragraph 5(b). Underwriters shall then be entitled to reimbursement of the reasonable attorneys fees, costs and expenses (excluding, however, IndyMac's own employee costs) incurred in the recovery effort which Underwriters paid.

(f) The remaining amount of the recovery, net of the expense of such recovery efforts as described in Paragraph 5(e), will be applied first to reimburse Underwriters up to the amount paid under paragraph 2 of this Agreement, and, thereafter, to reimburse IndyMac for its deductible in the amount of \$500,000.

6. Confidentiality.

The parties to this Agreement agree that, except as provided in this paragraph, they shall not disclose the terms of this Agreement, including but not limited to the amount of payment under Paragraph 2 of this Agreement, to any person not a party to this Agreement, except:

- (a) as reasonably necessary or appropriate in a communication to the parties released in this Agreement;
- (b) as reasonably necessary or appropriate in a communication to an accountant, auditor, consultant, attorney, insurance broker, reinsurer, insurer, prospective insurer or any employee, officer or director of the parties;
- (c) upon the written consent of the parties to this Agreement;
- (d) if required by court order or if required in response to a subpoena or other discovery request in a lawsuit;
- (e) as reasonably necessary or appropriate in a communication to any insurance regulatory agency or authority;
- (f) as reasonably necessary or appropriate in connection with the pursuit of recovery; or
- (g) as reasonably necessary to the Internal Revenue Service or any other taxing agency or entity.

7. Representations and Warranties.

The parties hereto represent and warrant to and agree with each other as follows:

- (a) Each party has received independent legal advice from attorneys of their own choice with respect to the advisability of making the settlement and the releases provided herein and with respect to the advisability of executing this Agreement.
- (b) The recited considerations of this Agreement are the sole and only considerations of this Agreement, and no representations, promises, warranties, or other inducements have been made by the parties other than as appear in this

instrument. Furthermore, this instrument represents the full and final integrated agreement between the parties hereto, and supersedes any and all prior oral or written agreements or memoranda, express or implied, or positions as to coverage that exist or may exist between the parties with respect to the matters described and released herein.

- (c) All parties hereto and their counsel have made an investigation of the facts pertaining to the releases contained herein as they deem necessary.
- (d) The terms of this Agreement are contractual, are the result of negotiation among the parties and are not mere recitals.
- (e) This Agreement has been carefully read by each of the parties and the contents thereof are known and understood by each of the parties.
- (f) Each party covenants and agrees not to bring any claim, suit or proceeding against any party hereto, directly or indirectly, regarding or relating to the matters released hereby (except to enforce this Agreement), and further covenant and agree that this Agreement is a bar to any such claim, suit or proceeding.
- (g) IndyMac represents and warrants that it is the sole and lawful owner of all right, title and interest in and to every claim or other matter which it releases herein, and that it has not heretofore assigned, transferred or purported to assign or transfer, to any person, firm, association, corporation or other entity, any right, title or interest in any such claim or other matter.
- (h) In making and entering into this Agreement, it is understood and agreed that each party relied fully upon his or its judgment, or the persons employed by them, and is not made upon any reliance on any statement or representation of any other party.
- (i) No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver.

8. Modifications.

This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement subscribed to by IndyMac and Underwriters or their authorized representatives.

9. Agreement Binding on Successors.

This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective past, present and future heirs, executors, legal representatives, attorneys, subrogees, successors, assigns, predecessors in interest, insurance companies, adjusters, insurance agents and brokers, investigators, appraisers, partners, directors, officers, owners, stockholders, administrators, executives, employees, agents, representatives and all parent, subsidiary, allied or affiliated corporations or survivors by merger.

10. No Admission of Liability.

IndyMac and Underwriters explicitly acknowledge that this Agreement represents a settlement of disputed claims, and that by entering into this Agreement, they do not admit or acknowledge the existence of any liability or wrongdoing. Neither this Agreement, the settlement which led to it, nor the payment of consideration hereunder, is intended to be or shall be construed or treated in any respect as an admission of liability by IndyMac or Underwriters for any purpose. This Agreement and the settlement which led to it is entirely without prejudice to the future interpretation by Underwriters and IndyMac of the terms and conditions of any bond or insurance policy issued by Underwriters.

11. Attorneys' Fees and Costs.

Each party to this Agreement agrees that it will be responsible for all attorneys' fees, costs and expenses incurred by it in connection with the negotiation, execution and performance of this Agreement.

12. Severability.

In the event any portions of this Agreement shall be deemed to be void, voidable or unenforceable, the remaining portions shall remain in full force and effect.

13. Warranty of Authority.

Each person whose signature is affixed hereto in a representative capacity represents and warrants that he is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

14. Counterparts.

This Agreement may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which, when executed, shall constitute one and the same instrument.

15. Facsimile and Electronic Mail Copies.

The parties agree that facsimile and electronic mail copies of the signatures to this Agreement shall be treated as original signatures, are acceptable to each other, and shall bind the parties' respective rights and obligations under this Agreement, to the same extent as if such signatures were original (wet) signatures.

16. Good Faith Settlement

All parties hereto acknowledge that the settlement set forth in this Agreement is entered into in good faith, as a result of arms length negotiations, and to resolve and compromise disputed substantial claims between them.

17. Construction of Agreement

As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates. This Agreement shall be construed without regard to the party or parties responsible for its preparation and shall be deemed to have been prepared jointly by the parties hereto. The parties hereto agree that any rule of construction to the effect that any ambiguities are to be or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor one party against the other.

18. Additional Acts

IndyMac and Underwriters shall, at the reasonable request of the other, execute, acknowledge and deliver whatever additional instruments, and do such other acts, as may be required or convenient to carry out the intent and purpose of this Agreement.

19. Governing Law

This Agreement shall be governed by and construed under and in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

(b)(6)

Dated: 6/21/07

INDYMAC BANCORP/INC.

Name: Scott W. Waps (b)(6)  
Title: CFD

THOSE CERTAIN UNDERWRITERS AT LLOYD'S,  
LONDON SEVERALLY SUBSCRIBING TO  
MORTGAGE BANKERS BOND INSURANCE NO.

(b)(4)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Edward T. Stork, Esq.  
Their Authorized Representative

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

**THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

(b)(2) [redacted] ("Settlement Agreement") is entered into and made effective as of the \_\_\_\_\_ day of October, 2008 ("Effective Date"), by and between plaintiff Federal Deposit Insurance Corporation, as conservator for IndyMac Federal Bank, FSB formerly known as IndyMac Bank, FSB ("IndyMac"), defendant Angelino Mortgage Co., Inc.; a California Corporation and defendant John Robert Lim (hereinafter collectively "Angelino Mortgage"). (IndyMac, Angelino Mortgage and John Robert Lim may hereinafter be referred to individually as a "Party" or collectively as the "Parties").

**1. RECITALS**

1.1 On or about May 18, 2006, Angelino Mortgage and IndyMac entered into a written Customer Agreement and e-mits User Agreement (hereinafter "Agreement") and incorporated Lending Guide ("Guide").

(b)(6) [redacted]  
(b)(6) [redacted]  
(b)(6) [redacted]  
(b)(6) [redacted]  
1.2 Pursuant to the Agreement, on or about October 4, 2006, Angelino Mortgage processed, packaged and submitted two loans concerning borrower [redacted] (b)(6) (loan nos. [redacted] and [redacted]) to IndyMac. The loans were secured by property located at [redacted] Murrieta, California. The principal amounts of the loans were \$159,800 and \$639,200.

1.3 IndyMac claims that Angelino Mortgage breached certain representations and warranties contained in the Agreement and Guide and negligently processed the Rodriguez loans.

1.4 IndyMac demanded Angelino Mortgage repurchase the Rodriguez loans and/or indemnify IndyMac for its losses.

1.5 Angelino Mortgage disputes IndyMac's claims relating to the Rodriguez loans and refused to repurchase the loans and/or indemnify IndyMac for its losses.

1.6 On or about October 3, 2007, IndyMac filed a lawsuit entitled *IndyMac Bank, F.S.B., as successor-in-interest to IndyMac, Inc. vs. Angelino Mortgage Co., Inc.; a California corporation; John Robert Lim, an individual*, Case No. BC 378 602 (hereinafter "Action"). Angelino Mortgage filed a general denial.

1.7 The Parties desire and have agreed to settle all claims relating to the Rodriguez loans in their entirety upon the terms and conditions hereinafter set forth.

**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 **Payment to IndyMac.** Angelino Mortgage shall pay to IndyMac the total sum of One Hundred Ten Thousand Dollars and No/100 (\$110,000.00). The sum of Eighty Five Thousand Dollars and No/100 (\$85,000.00) shall be paid within 10 business days of Angelino Mortgage's counsel's receipt of a fully executed copy of the Settlement Agreement. The settlement payments shall be made payable by check payable to IndyMac Federal Bank, FSB and transmitted to IndyMac c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31<sup>st</sup> Floor, Los Angeles, CA 90071-2901.

2.3 The remaining Twenty Five Thousand Dollars (\$25,000.00) shall be paid as follows: \$1,000 per month commencing November 1, 2008 and continuing on the first of each month until paid in full. The monthly payments shall be made by check payable to IndyMac Federal Bank, FSB and transmitted to IndyMac c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31<sup>st</sup> Floor, Los Angeles, CA 90071-2901.

2.4 Concurrently with the signing and delivery of this Settlement Agreement, John Robert Lim shall execute a Stipulation for Entry of Judgment in the amount of \$35,000.00 plus interest less any amounts received by IndyMac, 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 made a part of this Settlement Agreement. The Stipulation shall be entered immediately upon execution of this Settlement Agreement. The Judgment (Pursuant to Stipulation) shall not be entered so long as Angelino Mortgage performs under the terms of this Settlement Agreement as set forth in paragraphs 2.2-2.3 above.

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2.5 In the event Angelino Mortgage defaults by failing to make a timely payment to IndyMac as set forth in paragraphs 2.2 - 2.3 above, IndyMac shall give written notice via mail or facsimile of the default and notice of intent to enter Judgment (Pursuant to Stipulation) to Angelino Mortgage at: 77 E. Kensington Rd., L.A. 90026 and Carlson Law Group, Inc. at 6345 Balboa Boulevard, Suite 257, Encino, CA 91316,

Telephone: [redacted] Facsimile: [redacted]  
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(b)(4),(b)(6)

2.6 Angelino Mortgage shall have five (5) business days from receipt of the notice of intent to enter Judgment to cure the default. If Angelino Mortgage fails to cure the default within five (5) business days, IndyMac shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) and enforce said Judgment against Angelino Mortgage less any consideration already received by IndyMac pursuant to the settlement. Judgment may be entered by ex parte application (without testimony or trial and Angelino Mortgage further waives the right to a court and/or jury trial) with written notice given to Angelino Mortgage and Carlson Law Group, Inc. by facsimile or telephonic notice given at the facsimile and phone number listed above. The amount actually received by IndyMac shall be deducted from the amount of the Judgment (Pursuant to Stipulation).

2.7 Within 10 business days of IndyMac's counsel's receipt of the fully executed Settlement Agreement and the entered Stipulation for Entry of Judgment, IndyMac's counsel shall file a request for dismissal with prejudice.

2.8 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 the court shall retain jurisdiction over the parties to enforce this Settlement Agreement and the Judgment (Pursuant to Stipulation). The parties hereto request the Court to retain jurisdiction pursuant to C.C.P. § 664.6 to enforce the terms of this Settlement Agreement should a dispute arise.

2.9 The parties shall bear their own costs and attorneys' fees.

### 3. RELEASE

3.1 **Unknown Claims.** Each Party acknowledges and agrees that the release they give to the other Party 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 that Party may have against the other Party arising from or in conjunction with the Rodriguez loans, and each Party hereby expressly waives application of any applicable state statute, including but not limited to *California Civil Code §1542*.

3.2 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.”

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**3.3** Each Party understands and acknowledges 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 Rodriguez loans or any facts or circumstances related to the Rodriguez loans, that Party will not be able to make any claim for those damages. Furthermore, each acknowledges that they consciously intend 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.

**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 Party, and any and all of its respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, agents, investors, successors, assigns, representatives, officers, directors, shareholders, agents, 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 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, the Rodriguez loans. The Parties further acknowledge and agree that neither Party will take any action or assert any claims or demands against the other Party with any federal, state, municipal, or other governmental agency or court relating to the Rodriguez loans.

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

**3.6 Confidentiality.** The Parties agree that neither they nor anyone acting on their behalf, including their respective attorneys, will disclose to anyone any information relating to, in any way, the contents or terms of this Settlement Agreement, or any matters pertaining to this settlement, including its negotiation, unless such disclosure is: (1) lawfully required by any governmental agency; (2) otherwise required by law (including legally required financial reporting or other disclosures); or (3) necessary in any legal proceeding to enforce any provision of this Settlement Agreement. The Parties may disclose the terms of this Settlement Agreement to their respective auditors,

accountants, tax advisors, and legal counsel, but only to the extent required for professional advice from those sources and only after securing a commitment from those professionals to maintain the confidentiality of this Settlement Agreement, as required above, to the greatest extent possible considering the purpose for which the terms of the Settlement Agreement are needed by those professionals.

**3.7 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.

**3.8 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.

**3.9 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.

**3.10** 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.

**3.11 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.

**3.12 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.

**3.13 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

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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.

**3.14 Approval, Authority, and Nonassignment.** The Parties represent and warrant to one another that the approval of this Settlement Agreement has been undertaken in a proper and lawful manner and that they have the requisite power and authority to enter into and to perform their obligations under this Settlement Agreement, and further warrant and represent that they have not sold, assigned, granted or transferred to any other person, corporate or natural, or to any entity, any claim, action, demand, or cause of action released by this Settlement Agreement.

**3.15 Number.** Whenever applicable, the singular shall include the plural, and the plural shall include the singular.

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

**3.17 Waiver.** No term or condition of this Settlement Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Settlement Agreement, 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.

**3.18 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.

**3.19 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, 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.

**3.20 Entire Agreement.** The Parties hereto further agree and promise that this Settlement Agreement 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 pertaining to the Rodriguez loans. This Agreement 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 as of the date set forth in the opening paragraph of this Settlement Agreement.

DATED: October \_\_, 2008

CARLSON LAW GROUP, INC.

[Redacted signature box]

(b)(6)

By:

MARK C. CARLSON, ESQ.  
JONATHAN A. FELDHEIM, ESQ.

Attorneys for Defendants,  
Angelino Mortgage Co., Inc. and John Robert Lim

DATED: October 30, 2008

(b)(6)

[Redacted signature box]

By:

ANGELINO MORTGAGE, INC.

DATED: October 30, 2008

[Redacted signature box]

(b)(6)

By:

JOHN ROBERT LIM

[Redacted signature box]

DATED: October \_\_, 2008

ANDERSON, McPHARLIN & CONNERS LLP

(b)(6)

[Redacted signature]

By:

VANESSA H. WIDENER, ESQ.

Attorneys for Plaintiff,  
Federal Deposit Insurance Corporation, as conservator  
for IndyMac Bank, FSB formerly known as IndyMac  
Bank, FSB

DATED: October \_\_, 2008

[Redacted signature]

(b)(6)

By:

Federal Deposit Insurance Corporation as  
conservator for IndyMac Federal Bank, FSB  
formerly known as IndyMac Bank, F.S.B.

RECEIVED  
6/29/09

ENTERED  
6/3/09

LIMS N- (b)(2)  
DIF/Mortgage Fraud

SETTLEMENT AGREEMENT

**THIS SETTLEMENT AGREEMENT** ("Settlement Agreement") is entered into and made effective as of the \_\_\_\_ day of November, 2008 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Conservator for INDYMAC FEDERAL BANK, F.S.B. formerly known as INDYMAC BANK, F.S.B. (hereinafter "INDYMAC") and CALLISTO GROUP, INC., a California corporation; CALLISTO GROUP, INC. dba METRO LENDING SERVICES (hereinafter collectively "CALLISTO") and IRMA AVAKIAN ("AVAKIAN"). INDYMAC, and CALLISTO and AVAKIAN may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

(b)(2) [Redacted]

**1. RECITALS**

1.1 Prior to August 11, 2004, INDYMAC and CALLISTO entered into a business relationship governed by a written Seller Contract and e-MITS User Agreement (hereinafter "Agreement").

1.2 CALLISTO sold to INDYMAC the following loans identified by borrower name, loan number(s), principal amount(s) and address pursuant to the Agreement:

(b)(6) [Redacted] Duque (loan nos. [Redacted]) in the principal amounts of \$ 412,000 and \$ 103,000, secured by real property located at [Redacted] San Fernando, California. (b)(6)

(b)(6) [Redacted] Kalayidzhyan (loan nos. [Redacted]) in the principal amounts of \$ 488,000 and \$ 122,000 secured by real property located at [Redacted] Street, Tujunga, California. (b)(6)

(b)(6) [Redacted] Markosyan (loan nos. [Redacted]) in the principle amounts of \$ 412,000 and \$103,000 secured by property located at [Redacted] Burbank, California. (b)(6)

(b)(6) [Redacted] Merino (loan nos. [Redacted]) in the principal amount of \$ 448,000 secured by real property located at [Redacted] Santa Ana, California.

(b)(6) [Redacted] Atakhanian (loan no. [Redacted]) in the principal amount of \$ 133,700 secured by the real property located at [Redacted] Glendale, California.

(b)(6) [Redacted] Deleon (loan no. [Redacted]) in the principal amount of \$ 500,000 secured by real property located at [Redacted] Grenada Hills, California.

(b)(6)

1.3 INDYMAC claims that CALLISTO and AVAKIAN as the mortgage broker of record breached their duty owed to INDYMAC and CALLISTO breached certain representations and warranties contained in the Agreement with respect to the above-referenced loans hereinafter referred to as the "SUBJECT LOANS". INDYMAC demanded CALLISTO repurchase the SUBJECT LOANS and/or indemnify INDYMAC for its losses.

1.4 INDYMAC has also demanded payment for certain alleged documentation fees (the "DOCUMENT FEES") associated with the SUBJECT LOANS and other loans processed, packaged, and/or sold by CALLISTO to INDYMAC.

1.5 CALLISTO and AVAKIAN dispute INDYMAC's claims relating to the SUBJECT LOANS, and refused to repurchase the loans and/or indemnify INDYMAC for its alleged losses. Specifically, and without limitation, CALLISTO and AVAKIAN deny that they owed a duty of care to INDYMAC, that any duty owed was breached, and that they breached any representations and warranties made. CALLISTO and AVAKIAN further allege that any losses suffered by INDYMAC were not caused by any act or omission by CALLISTO and/or AVAKIAN.

1.6 On or about December 11, 2007, INDYMAC filed a lawsuit entitled *INDYMAC BANK, FSB v. CALLISTO GROUP, INC., a California corporation; CALLISTO GROUP, INC., dba METRO LENDING SERVICES; IRMA AVAKIAN, an individual, and DOES 1-50, inclusive*; Case No. BC382072. A First Amended Complaint was filed on June 16, 2008 (hereinafter "Action").

1.7 The Parties desire and have agreed to settle all claims relating to the SUBJECT LOANS at issue in 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 **Payment to INDYMAC.** Payment of Two Hundred Sixty Five Thousand Dollars and no/cents (\$265,000.00) (the "Settlement Funds") shall be paid on behalf of CALLISTO and AVAKIAN to INDYMAC.

a. Of the Settlement Funds, the initial payment (the "Initial Payment") shall be \$200,000.00. Of the Initial Payment, \$125,747.32 currently held by

INDYMAC shall be applied towards the Initial Payment. \$74,252.68 of the Initial Payment shall be paid by check payable to INDYMAC FEDERAL BANK, F.S.B. and transmitted to INDYMAC c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31<sup>st</sup> Floor, Los Angeles, CA 90071-2901, within 5 days that CALLISTO receives payment from its insurer, but in no event later than November 17, 2008.

b. The remaining Sixty Five Thousand Dollars (\$65,000.00) shall be paid as follows: \$5,146.66 per month commencing December 1, 2008 and continuing on the first of each month until paid in full. The monthly payments shall be made by check payable to INDYMAC FEDERAL BANK, FSB and transmitted to INDYMAC c/o Vanessa H. Widener, Esq., Anderson, McPharlin & Conners LLP, 444 South Flower Street, 31<sup>st</sup> Floor, Los Angeles, CA 90071-2901.

2.3 Concurrently with the signing and delivery of this Settlement Agreement, CALLISTO shall execute a Stipulation for Entry of Judgment in the amount of \$65,000.00 less any amounts received by INDYMAC, 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 made a part of this Settlement Agreement. The Stipulation shall be entered immediately upon execution of this Settlement Agreement. The Judgment (Pursuant to Stipulation) shall not be entered so long as CALLISTO performs under the terms of this Settlement Agreement as set forth in paragraph 2.2(b) above. Entry of the Judgment in accordance with the terms of the Stipulation, and enforcement of said Judgment, shall be INDYMAC's sole recourse in the event of a default by CALLISTO in making the payments called for herein.

2.4 In the event CALLISTO defaults by failing to make a timely payment to INDYMAC as set forth in paragraphs 2.2(b) above, INDYMAC shall give written notice via mail or facsimile of the default and notice of intent to enter Judgment (Pursuant to Stipulation) to CALLISTO at: Metro Lending Services, ATTN: Vatche Yepremian, 550 North Brand Blvd., Suite 2050, Glendale, CA 91203 Fax: 818.459.0035; with a copy to: Mark S. Horoupian, SulmeyerKupetz, A Professional Corporation, 333 South Hope Street, Thirty-Fifth Floor, Los Angeles, CA 90071; Voice [redacted] Fax: [redacted]

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

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

2.5 CALLISTO shall have five (5) business days from receipt of the notice of intent to enter Judgment to cure the default. If CALLISTO fails to cure the default within five (5) business days, INDYMAC shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) and enforce said Judgment against CALLISTO less any consideration already received by INDYMAC pursuant to the settlement. Judgment may be entered by ex parte application (without testimony or trial and CALLISTO further waives the right to a court and/or jury trial) with written notice given to CALLISTO and Mark Horoupian by facsimile or telephonic

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notice given at the facsimile and phone number listed above. The amount actually received by INDYMAC shall be deducted from the amount of the Judgment (Pursuant to Stipulation).

2.6 Within 5 business days of INDYMAC's counsel's receipt of the fully executed Settlement Agreement, INDYMAC's counsel shall file a request for dismissal of the entire Action with prejudice.

2.7 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 shall retain jurisdiction over the parties to enforce this Settlement Agreement and the Judgment (Pursuant to Stipulation).

2.8 The parties shall bear their own costs and attorneys' fees.

### 3. RELEASE

3.1 **Unknown Claims.** INDYMAC, AVAKIAN and CALLISTO 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 conjunction with the SUBJECT LOANS, as well as any DOCUMENT FEES.

3.2 The Parties acknowledge and agree that CALLISTO processed, packaged and/or sold other mortgage loans to INDYMAC which are not part of the Action and that, except as to the DOCUMENT FEES, this Settlement Agreement and Release as to CALLISTO do not apply to those mortgage loans. INDYMAC expressly reserves its rights to pursue any and all claims and causes of action, except as they may related to DOCUMENT FEES, it may have in law or equity against CALLISTO arising out of any mortgage loans which are not part of the Action.

3.3 The Parties hereby expressly waive application of any applicable state statute, including but not limited to *California Civil Code §1542*. 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."

3.4 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 SUBJECT LOANS or any facts or circumstances related to the SUBJECT LOANS and DOCUMENT FEES, that Party will not be able to make any claim for those damages. Furthermore, each 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 SUBJECT LOANS and the DOCUMENT FEES, 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.

3.5 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 Party, and any and all of its respective past, present, and future affiliates, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, insurers, agents, investors, 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 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 (hereinafter "INDYMAC AGENTS" or "CALLISTO 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, the SUBJECT LOANS and the DOCUMENT FEES. The Parties further acknowledge and agree that neither Party will take any action or assert any claims or demands against the other Party with any federal, state, municipal, or other governmental agency or court relating to the SUBJECT LOANS and the DOCUMENT FEES.

3.6 Except for the rights, duties, and obligations set forth in this Settlement Agreement and Stipulation for Entry of Judgment, in addition to the release in paragraphs 3.4 and 3.5, INDYMAC and AVAKIAN agree to a further release of 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 including INDYMAC AGENTS and CALLISTO AGENTS arising from or in conjunction with any other mortgage loans which may have been processed, packaged, approved, underwritten and/or sold by CALLISTO to INDYMAC prior to the date of this Settlement Agreement. This release does not include any

mortgage loans to which AVAKIAN or CALLISTO AGENTS are parties to the transaction (i.e., buyer, seller or borrower) or any mortgage loan transactions in which there is actual fraud.

3.7 The release as to CALLISTO shall become effective upon execution of the Settlement Agreement, and the full payment of the Settlement Funds or entry of the Judgment Pursuant to Stipulation whichever occurs first.

3.8 The release as to AVAKIAN and CALLISTO AGENTS as set forth in paragraph 3.6 shall become effective upon execution of the Settlement Agreement and payment of the Initial Settlement Payment.

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 **Confidentiality.** The Parties agree that neither they nor anyone acting on their behalf, including their respective attorneys, will disclose to anyone any information relating to, in any way, the contents or terms of this Settlement Agreement, or any matters pertaining to this settlement, including its negotiation, unless such disclosure is: (1) lawfully required by any governmental agency; (2) otherwise required by law (including legally required financial reporting or other disclosures); or (3) necessary in any legal proceeding to enforce any provision of this Settlement Agreement. The Parties may disclose the terms of this Settlement Agreement to their respective auditors, accountants, tax advisors, and legal counsel, but only to the extent required for professional advice from those sources and only after securing a commitment from those professionals to maintain the confidentiality of this Settlement Agreement, as required above, to the greatest extent possible considering the purpose for which the terms of the Settlement Agreement are needed by those professionals.

4.3 **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.

4.4 **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.

4.5 **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.

**4.6 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, 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.

**4.7 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.

**4.8 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.

**4.9 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.

**4.10 Approval, Authority, and Nonassignment.** The Parties represent and warrant to one another that the approval of this Settlement Agreement has been undertaken in a proper and lawful manner and that they have the requisite power and authority to enter into and to perform their obligations under this Settlement Agreement, and further warrant and represent that they have not sold, assigned, granted or transferred to any other person, corporate or natural, or to any entity, any claim, action, demand, or cause of action released by this Settlement Agreement.

**4.11 Number.** Whenever applicable, the singular shall include the plural, and the plural shall include the singular.

**4.12 Counterparts/Execution.** This Settlement Agreement may be executed in one or more counterparts, all of which shall form a single agreement. A Party's signature on this Settlement Agreement 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.

4.13 **Waiver.** No term or condition of this Settlement Agreement shall be deemed to have been waived, nor shall there be an estoppel against the enforcement of any provision of this Settlement Agreement, 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.

4.14 **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.

4.15 **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, 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.

4.16 **Entire Agreement.** The Parties hereto further agree and promise that this Settlement Agreement 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 agreement 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 as of the date set forth in the opening paragraph of this Settlement Agreement.

DATED: November 17, 2008  
APPROVED AS TO FORM

SULMEYER KUPETZ

[Redacted signature box]

~~Mark S. Hecopian~~

Attorneys for Defendants, CALLISTO GROUP, INC.,  
a California corporation; CALLISTO GROUP, INC.  
dba METRO LENDING SERVICES; and IRMA  
AVAKIAN

(b)(6)

DATED: November 14, 2008

CALLISTO GROUP, INC. and CALLISTO GROUP, INC., dba MBTRO LENDING SERVICES

By:  (b)(6)

VATCHE YESSEMIAN, Pres.  
Type/Print Name and Title

DATED: November 14, 2008

By:  (b)(6)  
IRMA AVAKIAN

DATED: November \_\_, 2008  
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By: \_\_\_\_\_  
VANESSA H. WIDENER  
Attorneys for Plaintiff,  
FEDERAL DEPOSIT INSURANCE CORPORATION, as Conservator for INDYMAC FEDERAL BANK, F.S.B. formerly known as INDYMAC BANK, F.S.B.

DATED: November \_\_, 2008

FEDERAL DEPOSIT INSURANCE CORPORATION AS CONSERVATOR FOR INDYMAC FEDERAL BANK, F.S.B formerly known as INDYMAC BANK, F.S.B.

By: \_\_\_\_\_  
Ignacio Gomez  
Vice President

