

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (the "*Agreement*") is effective on the date that all parties have executed the *Agreement*, and is entered into by and between the Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB ("*FDIC*") and Scott Heinen and Heinen & Associates, LLC (collectively "*Heinen*") with respect to the claims made in the case captioned *Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB v. The Atterstrom Consulting Group, et al.*, in the 269th Judicial District Court of Harris County, Texas, Cause No. 2008-21777 (the "*Litigation*").

RECITALS

WHEREAS, IndyMac Bank, F.S.B ("*IndyMac*") funded mortgage loans secured by the real property identified in the Exhibit to this *Agreement* (the "*Property*");

WHEREAS, *Heinen* performed an appraisal of the *Property* which was used in connection with mortgage loans funded by *IndyMac* (the "*Appraisal*");

WHEREAS, *IndyMac* asserted claims in the *Litigation* against *Heinen* based on the *Appraisal*;

WHEREAS, *FDIC* is entitled to pursue the claims asserted by *IndyMac* in the *Litigation*;

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

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

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

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

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

For and in consideration of the total payment of \$40,000 (Forty Thousand Dollars) by *Heinen* to be payable to "RJ Landau Partners PLLC, Attorneys for Federal Deposit Insurance Corporation" within fifteen (15) days of the execution of this *Agreement*, and in consideration of the terms and conditions of this *Agreement*, *FDIC* does absolutely and unconditionally release *Heinen*, *Heinen's* officers, directors, shareholders, members, insurers, attorneys, employees, owners, agents, affiliates, successors, fiduciaries, estates, heirs, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Litigation*, which *FDIC* had, has, claims to have, or may hereafter acquire against *Heinen*, arising out of the facts and circumstances alleged in the *Litigation*.

3. **Express Reservation from Releases by *FDIC*.** Notwithstanding any other provision, by this *Agreement*, *FDIC* does not release, and expressly preserves fully and to the same extent as if the *Agreement* had not been executed, (a) any claims or causes of action that do not arise from or relate to the facts and circumstances alleged in the *Litigation*, or the defense of the same, or (b) any action taken by any other federal agency.

4. **No Admission of Liability.** It is expressly understood and agreed that the sum of money being paid by *Heinen* as set forth in this *Agreement* is in compromise and settlement of

disputed claims and that the payment of such money is not and shall not be construed as an admission of liability on the part of *Heinen*.

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

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

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

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

9. **Governing Law.** This *Agreement* shall be governed by and construed in accordance with Texas law (excluding any conflict of laws rule or principle that might refer the governance or construction of this *Agreement* to the law of another jurisdiction). Nothing in this *Agreement* shall require any unlawful action or inaction by any party hereto.

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

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

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

IN WITNESS WHEREOF, the parties to this *Agreement* have executed this *Agreement* as of the date indicated by each party's signature.

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

By: (b)(6)

Name: Jack S. Duncan

Title: Counsel

Date: 10/21/10

Scott Heinen

[Redacted]

(b)(6)

Date: 9-20-2010

Heinen & Associates, Inc.

By: Scott E Heinen

Name: [Redacted]

(b)(6)

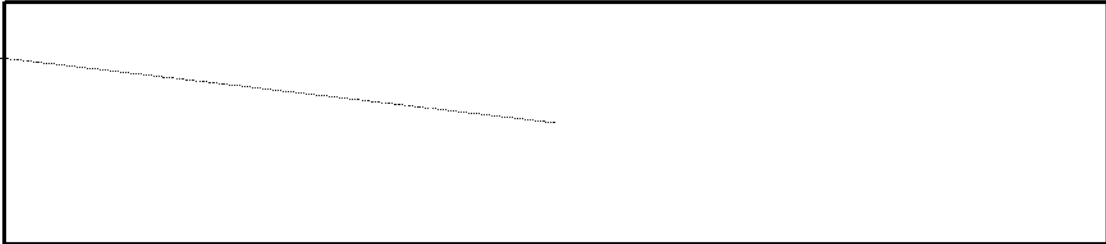
Title: Owner

Date: 9-20-2010

EXHIBIT TO RELEASE AND SETTLEMENT AGREEMENT

This Exhibit to the Release and Settlement Agreement (the "*Agreement*") entered into by and between the Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB and Scott Heinen and Heinen & Associates, LLC with respect to the claims made in the case captioned *Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank, FSB v. The Atterstrom Consulting Group, et al.*, in the 269th Judicial District Court of Harris County, Texas, Cause No. 2008-21777 is specifically included as a part of the *Agreement*.

The term "*Property*" as used in the *Agreement* means:

(b)(6) 

(b)(6) More commonly known as  Houston, Texas 77002.