

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALLY BANK f/k/a/ GMAC BANK,

Plaintiff,

- against -

1ST REPUBLIC MORTGAGE BANKERS, INC., SCOTT
SISSKIND, JOHN REIMER and LENDERS ABSTRACT AND
SETTLEMENT SERVICES, INC.,

Defendants.

Case No.: 09 Civ. 247 (ADS)(WDW)

**STIPULATION AND ORDER
OF SETTLEMENT**

FIRSTTRUST BANK,

Plaintiff,

- against -

1ST REPUBLIC MORTGAGE BANKERS, INC. a/k/a FIRST
REPUBLIC MORTGAGE BANKERS, INC., SCOTT
SISSKIND, JOHN REIMER and LENDERS ABSTRACT AND
SETTLEMENT SERVICES, INC.,

Defendants.

Case No.: 09 Civ. 177 (ADS)(WDW)

ALLY BANK f/k/a GMAC BANK,

Plaintiff,

- against -

JOHN REIMER and JEANNE KERAMIS,

Defendants.

Case No.: 09 Civ. 2795 (ADS)(WDW)

FIRSTTRUST BANK,

Plaintiff,

- against -

SCOTT SISSKIND, JOHN REIMER, NEIL SISSKIND, as
Trustee of the SPS Real Estate and Mortgage GRIT, JEANNE
KERAMIS, DAVID ANAKIE and LINKUP MEDIA, INC.,

Defendants.

Case No.: 09 Civ. 2918 (ADS)(WDW)

FINANCIAL FREEDOM SENIOR FUNDING
CORPORATION,

Plaintiff,

- against -

LENDERS ABSTRACT & SETTLEMENT SERVICES, INC.,
1ST REPUBLIC MORTGAGE BANKERS, INC., DREAM
MAKERS REAL ESTATE, LLC, JOHN REIMER and SCOTT
SISSKIND,

Defendants.

Case No.: 09 Civ. 221 (ADS)(WDW)

This Stipulation and Settlement Agreement (the "Stipulation") is made as of the _____ day of February, 2011 (the "Effective Date") by and among the undersigned counsel and plaintiff, Ally Bank f/k/a GMAC Bank ("Ally"), plaintiff, Firsttrust Bank ("Firsttrust"), plaintiff, Financial Freedom Senior Funding Corporation ("Financial Freedom"), defendant, Jeanne Keramis ("Keramis") and defendant, John Reimer, as pro se ("Reimer," along with Ally, Firsttrust, Financial Freedom and Keramis, the "Parties").

RECITALS

WHEREAS, Ally commenced the action entitled, Ally Bank f/k/a GMAC Bank v. 1st Republic Mortgage Bankers, Inc., Scott Sisskind, John Reimer and Lenders Abstract and Settlement Services, Inc., 09 Civ. 247 (ADS)(WDW), by the filing of a Summons and Complaint on January 21, 2009 (the "Ally Main Action");

WHEREAS, Firsttrust commenced the action entitled, Firsttrust Bank v. 1st Republic Mortgage Bankers, Inc. a/k/a First Republic Mortgage Bankers, Inc., Scott Sisskind, John Reimer and Lenders Abstract and Settlement Services, Inc., 09 Civ. 177 (ADS)(WDW), by the filing of a Summons and Complaint on January 16, 2009, and an Amended Complaint on February 20, 2009 (the "Firsttrust Main Action");

WHEREAS, Ally commenced the action entitled, Ally Bank f/k/a GMAC Bank v. John Reimer and Jeanne Keramis, 09 Civ. 2795 (ADS)(WDW), by the filing of a Summons and Complaint on July 1, 2009 and an Amended Complaint on July 21, 2009, claiming, inter alia,

that the conveyance of the Property was voidable under New York Debtor and Creditor Law (the "Ally Fraudulent Conveyance Action");

WHEREAS, Firsttrust commenced the action entitled, Firsttrust v. Scott Sisskind, John Reimer, Neil Sisskind, as Trustee of the SPS Real Estate and Mortgage GRIT, Jeanne Keramis, David Anakie and Linkup Media, Inc., 09 Civ. 2918 (ADS)(WDW), by the filing of a Summons

and Complaint on July 9, 2009, claiming, inter alia, violations of New York Debtor and Creditor Law by Reimer and Keramis and requesting a judgment setting aside the conveyance of the Property (the "Firsttrust Fraudulent Conveyance Action");

WHEREAS, Financial Freedom commenced the action entitled, Financial Freedom Senior Funding Corporation v. Lenders Abstract and Settlement Services, Inc., 1st Republic Mortgage Bankers, Inc., Dream Makers Real Estate, LLC, John Reimer and Scott Sisskind, 09 Civ. 221 (ADS)(WDW), by the filing of a Summons and Complaint on January 20, 2009, and an Amended Complaint on March 19, 2009 (the "Financial Freedom Action")

WHEREAS, by deed, dated August 22, 1996, Reimer and Keramis purchased the property located at 166 Guildford Court, West Hempstead, New York 11552 (the "Property"), as tenants-in-common;

WHEREAS, by Bargain and Sale Deed, dated October 22, 1998, and recorded in the Office of the Clerk of Nassau County on November 18, 1998, Reimer and Keramis conveyed the Property to Reimer;

WHEREAS, by Bargain and Sale Deed, dated January 14, 2009 and recorded in the Office of the Clerk of Nassau County on January 29, 2009 (the "January 2009 Deed"), Reimer conveyed the Property to Keramis for no consideration;

WHEREAS, by virtue of the January 2009 Deed, title to the Property is now held solely by Keramis;

WHEREAS, on January 21, 2009, this Court in the Ally Main Action issued an Amended Order to Show Cause with Temporary Restraining Order (the "Ally Order to Show Cause"), inter alia, temporarily enjoining and restraining Bank of America, N.A. ("BOA") from permitting any transfers, withdrawals, distributions, debits or otherwise to permit any funds from being removed from any and all accounts maintained at BOA in the names of, or for the benefit

of, the defendants therein, including Reimer, pending the determination and hearing of the Order to Show Cause;

WHEREAS, on January 30, 2009, the Honorable Jack B. Weinstein in the Financial Freedom Action issued an Order of Attachment, Preliminary Injunction and Expedited Discovery (the "Financial Freedom Order of Attachment"), inter alia, attaching, enjoining and restraining the defendants therein, including Reimer, from directly or indirectly secreting, transferring, selling, alienating, concealing, encumbering or otherwise dissipating any asset of any defendant up to \$337,862.56, pending the final resolution of the Financial Freedom Action;

WHEREAS, on February 5, 2009, this Court in the Ally Main Action issued an Order of Attachment, Preliminary Injunction and Expedited Discovery (the "Ally Order of Attachment"), which, inter alia, attached, enjoined and restrained the defendants therein, including Reimer, from directly or indirectly transferring, disposing, selling, alienating, concealing, converting, liquidating or otherwise disposing of any real or personal property belonging to any of the defendants or in which any of the defendants have any interest;

WHEREAS, on each of January 31, 2009 and February 7, 2009, Reimer and/or Keramis obtained advances of \$1,000 and \$1,700, for a total of \$2,700, on a home equity line of credit secured by the Property with BOA, Account No. XXXX XXXX XX [redacted] (b)(4),(b)(6)

WHEREAS, the Ally Order of Attachment was served on BOA on or about February 5, 2009, and in response to the Ally Order of Attachment, BOA restrained three accounts maintained at BOA in the names of Reimer or Keramis as tenants-in-common (the "BOA Accounts"):

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

Account No. XXXX XXXX [redacted] with a balance as of March 5, 2009 of \$66,000.47;
Account No. XXXX XXXX [redacted] with a balance as of March 5, 2009 of \$173.40; and
Account No. XXXX XXXX [redacted] with a balance as of March 5, 2009 of \$31.20.

The total amount held in the BOA Accounts as of March 5, 2009 was \$66,205.07;

WHEREAS, on January 29, 2010, Magistrate Judge Wall issued a Report and Recommendation in the Ally Fraudulent Conveyance Action, which, inter alia, recommended that a preliminary injunction be issued restraining Reimer and Keramis from transferring, dissipating, conveying, encumbering or otherwise disposing of the Property during the pendency of the Ally Fraudulent Conveyance Action; and

WHEREAS, on March 12, 2010, Judge Spatt issued a Memorandum and Order adopting Judge Wall's Report and Recommendation in its entirety, thereby enjoining Reimer and Keramis from transferring, dissipating, conveying, encumbering or otherwise disposing of the Property during the pendency of the Ally Fraudulent Conveyance Action (the "March 12 Injunction").

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties stipulate and agree as follows:

1. Recitals. The Recitals are incorporated herein by reference.
2. Effective Date. This Stipulation shall be effective as of the Effective Date when the conditions precedent in Section 6 have been satisfied.
3. Listing and Sale of Property. Keramis shall:
 - (a) retain Ark Associates of Nassau, Inc., 455 Hempstead Turnpike, West Hempstead, New York 11552 (the "Broker") as listing broker, with David Zivotofsky as listing agent, to market the Property for sale, and shall agree to pay a commission to the Broker, upon, and only upon, the closing of title, a commission of not greater than 4% of the sales price thereof;

(b) list the Property for sale no later than ten (10) days after the Effective Date at a purchase price of not less than Five Hundred Sixty-Four Thousand Dollars (\$564,000) (the "Asking Price");

(c) make the Property available for showing to prospective buyers on reasonable and/or customary notice and maintain the Property in good condition suitable for such showing;

(d) grant Ally and Firstrust and their agents, representatives, and employees full and complete access to the Property for purposes of inspecting the Property upon forty-eight (48) hours written notice to Keramis;

(e) report, and to cause the Broker to report, to counsel for Ally and Firstrust any offer to purchase the Property;

(f) enter into a contract of sale for the Property, subject to the prior written approval of Ally and Firstrust, in a usual and customary form, which contract of sale shall not provide for any contingencies or for a closing date more than 45 days after execution, with any party who offers to purchase the Property for an amount, payable all in cash, equal to or greater than the Asking Price or, with Ally and Firstrust's prior written consent, for an amount less than the Asking Price; and

(g) cause the proceeds of the sale of the Property to be applied and distributed ~~in accordance with Section 5 hereof;~~

(h) if the Broker fails to find a purchaser for the Property within six (6) months of the Effective Date, replace the Broker with another listing broker chosen by and acceptable to Ally and Firstrust.

4. Modification of the Ally Order of Attachment, Financial Freedom Order of Attachment and March 12 Injunction.

(a) The Ally Order of Attachment, Financial Freedom Order of Attachment and March 12 Injunction are hereby modified for the express and limited purposes of:

(i) permitting Keramis and Reimer to perform their agreements under this Stipulation; and

(ii) permitting the distribution and division of the funds in the BOA Accounts in accordance with Section 7 of this Stipulation.

(b) Except as expressly modified by this Stipulation, the Ally Order of Attachment, Financial Freedom Order of Attachment and March 12 Injunction shall remain in full force and effect.

5. Proceeds of Sale of Property. The Parties agree that proceeds of the sale of the Property shall be applied and divided as follows:

(a) the gross proceeds of the sale shall be applied to the payment of (i) the commission due to the Broker (not to exceed 4% of the gross purchase price); (ii) the payment of the First Mortgage (hereinafter defined); (iii) the payment of the HELOC Mortgage (hereinafter defined), (iv) transfer taxes and recording fees that are the obligation of the seller of the Property to pay and (v) the adjustments and prorations required under the contract of sale (collectively, the "Approved Disbursements"), and, after the payment of the Approved Disbursements, the remainder of the proceeds of the sale (the "Net Proceeds") shall be applied in accordance with ~~clauses (b), (c), (d) and (e);~~

(b) one-third of the Net Proceeds, less the sum of \$2,700, shall be paid by check, made payable to Jeanne Keramis, and delivered to counsel for Keramis, Bryan A. McKenna, Esq., of Murphy & McKenna, LLC, 1461 Franklin Avenue, Garden City, New York 11530;

(c) one-third of the Net Proceeds remaining after payment to Keramis pursuant to Section 5(b), plus the sum of \$1,350, shall be paid by check, made payable to Ally Bank, and delivered to counsel for Ally, Tyler J. Kandel, Esq., of Emmet, Marvin & Martin, LLP, 120 Broadway, 32nd Floor, New York, New York 10271;

(d) one-third of the Net Proceeds remaining after payment to Keramis pursuant to Section 5(b), plus the sum of \$1,350, shall be paid by check, made payable to Firsttrust Bank, and delivered to counsel for Firsttrust, Richard A. Barkasy, Esq., of Schnader Harrison Segal & Lewis LLP, 1600 Market Street, Suite 3600, Philadelphia, Pennsylvania 19103; and

(e) one-third of the Net Proceeds remaining after payment to Keramis pursuant to Section 5(b) shall be paid by check, made payable to Financial Freedom Senior Funding Corporation, and delivered to counsel for Financial Freedom, Eric Weinstein, Esq. of Weinstein Smith LLP, 420 Lexington Avenue, New York, New York 10170.

6. Conditions Precedent. This Stipulation shall be effective, as of the Effective Date, provided that on or before twenty (20) days after the date that this Stipulation has been duly executed by Reimer and counsel for all the remaining Parties:

(a) Ally and Firsttrust receive:

(i) statements from the holder of the first mortgage on the Property ~~(the "First Mortgage") and the home equity line of credit mortgage on the Property (the~~ "HELOC Mortgage") setting forth (1) the amounts of the arrears and amounts necessary to cure all payment defaults on such mortgages (collectively, the "Mortgage Arrears Statements") and (2) the amounts of the monthly payments due on such mortgages;

(ii) a title report relating to the Property, which shall not disclose any liens or encumbrances other than the First Mortgage and the HELOC Mortgage;

(iii) a statement from the applicable taxing authorities setting forth the outstanding real estate taxes on the Property (the "Tax Arrears Statement"); and

(iv) a copy of all existing, or, if there are no existing, new homeowners' insurance policies, confirmation from the applicable insurer or insurers that such policy or policies cover the Property, evidence that the premiums therefor have been paid and confirmation that Ally and Firsttrust have been added as loss payees and additional insureds under such homeowners' insurance policies.

(b) this Stipulation shall have been "so ordered" by the Court.

7. Distribution of the BOA Accounts. (a) The proceeds of the BOA Accounts shall be distributed and paid by BOA as follows:

(i) an amount equal to the total of the sums set forth in the Mortgage Arrears Statements and the Tax Arrears Statement shall be paid by check to Ally Bank, and delivered to Tyler J. Kandel, Esq., as counsel for Ally for disbursement in accordance with Section 6 of this Stipulation;

(ii) one-third of the total proceeds of the BOA Accounts, minus the amounts payable under clause (i) of this Section shall be paid by check to Jeanne Keramis, and delivered to Bryan A. McKenna, Esq. as counsel for Keramis;

(iii) one-third of the total proceeds of the BOA Accounts after payment is made to Keramis under clause (ii) of this Section shall be paid by check to Ally Bank, and delivered to Tyler J. Kandel, Esq., as counsel for Ally; and

(iv) one-third of the remaining proceeds of the BOA Accounts after payment is made to Keramis under clause (ii) of this Section shall be paid by check to Firsttrust Bank, and delivered to Richard A. Barkasy, Esq., as counsel for Firsttrust; and

(v) one-third of the remaining proceeds of the BOA Accounts after payment is made to Keramis under clause (ii) of this Section shall be paid by check to Financial Freedom Senior Funding Corporation, and delivered to Eric Weinstein, Esq., as counsel for Financial Freedom.

(b) BOA is hereby directed and ordered to distribute the proceeds of the BOA Accounts in accordance with this Section within ten (10) days after being served with a copy of this Stipulation.

(c) Counsel for Ally shall no later than ten (10) days after receipt of the payments specified in Section 7(a)(i), (1) pay the sums set forth in Mortgage Arrears Statements and (2) pay the amounts set forth in the Tax Arrears Statement.

8. Payment of Future Property Expenses. Keramis agrees that at closing of title on the Property, the following shall be paid out of her share of the Net Proceeds of the sale of the Property:

- (a) all arrears of monthly mortgage payments on the Property then existing;
- (b) all arrears of real estate taxes and other assessments on the Property then existing; and
- (c) all arrears of homeowners' insurance premiums related to the Property then existing.

~~9. Notice and Opportunity to Cure. If Reimer or Keramis defaults in the~~
performance of his or her obligations under this Stipulation, he or she shall have two (2) business days' after written notice of any such default is given by Ally or Firstrust to cure any such default, time being of the essence.

10. Event of Default. In the event Reimer or Keramis fails to cure any default within the period set forth in Section 9, Ally and Firstrust shall, at their option, have the right to

terminate this Stipulation and the releases of liability set forth in Section 11 shall be rescinded and the causes of action in the Ally Fraudulent Conveyance Action and the Firsttrust Fraudulent Conveyance Action, as applicable, shall be reinstated.

11. Release of Liability; Covenants Regarding Sale and Payments.

(a) Upon the closing of title on the Property, and the receipt by each of Ally and Firsttrust of its respective share of the Net Proceeds of the sale of the Property and the money held in the BOA Accounts:

(i) Ally and Firsttrust each irrevocably waive and release and discharge Keramis from any and all claims, liabilities or obligations arising in connection with the Property;

(ii) Ally shall execute a Stipulation of Dismissal in the form annexed hereto as Exhibit A, dismissing the Ally Fraudulent Conveyance Action (the "Ally Stipulation of Dismissal"). The Ally Stipulation of Dismissal shall be signed by Reimer and counsel for Keramis, delivered to and held in escrow by counsel for Ally and shall be filed with the Court after the closing of title on the Property, and the receipt by Ally of its share of the proceeds of the sale of the Property and the BOA Accounts; and

(iii) Firsttrust shall execute a Stipulation of Dismissal in the form annexed hereto as Exhibit B, dismissing the Firsttrust Fraudulent Conveyance Action as against ~~Reimer and Keramis (the "Firsttrust Stipulation of Dismissal").~~ ~~The Firsttrust Stipulation of~~ Dismissal shall be signed by Reimer and counsel for Keramis, delivered to and held in escrow by counsel for Firsttrust and shall be filed with the Court after the closing of title on the Property, and the receipt by Firsttrust of its share of the proceeds of the sale of the Property and the BOA Accounts.

(b) (i) Reimer and Keramis each agrees not to challenge, oppose, object to or pursue any action to set aside or avoid the sale of the Property or any of the payments made pursuant to this Stipulation, including, without limitation, by any temporary restraining order, temporary or permanent injunction or prior to the sale of the Property or the making of any of the payments required under this Stipulation, including, without limitation, by the filing of a voluntary bankruptcy or insolvency, or by consenting to any involuntary bankruptcy or insolvency, action or proceeding, and

(ii) in the event the sale of the Property is avoided or set aside, or in the event Ally or Firsttrust are required to disgorge all or any portion of its share of the Net Proceeds of the sale or the funds from the BOA Accounts, this Stipulation shall be terminated, the releases of liability granted by Ally and Firsttrust shall be rescinded and the causes of action in the Ally Fraudulent Conveyance Action and the Firsttrust Fraudulent Conveyance Action, as applicable, shall be reinstated.

(c) Nothing herein shall be construed as a release or waiver of any of Ally or Firsttrust's claims against Reimer.

12. Representations and Warranties. Each Party represents and warrants to the other Parties that:

(a) Power and Authority Relative to Transaction. Such Party has full power ~~and authority and has taken all required action necessary to permit such Party to execute, deliver~~ and perform such Party's obligations under this Stipulation, subject to approval by the Court;

(b) Valid and Binding Obligations. This Stipulation constitutes a valid and legally binding obligation of such Party, and is enforceable against such Party, in accordance with its terms;

(c) Recitals. The Recitals are true and correct in all material respects.

13. Interpretation. Each of the Parties has agreed to the use of the particular language of the provisions of this Stipulation, and any question of interpretation shall not be resolved by any rule providing for interpretation against the party who causes the uncertainty to exist or against the drafter of this Stipulation.

14. Time of the Essence. Except as expressly provided, time is of the essence of this Stipulation.

15. Notices. Any notice, request, direction or demand given or made pursuant to this Stipulation shall be in writing, shall be sent to the Parties at their respective addresses set forth below and shall be delivered personally, by Federal Express or other reputable overnight national courier service, by certified United States mail, return receipt requested or transmitted by facsimile, in each case to the practices at the fax numbers set forth below, and shall be deemed

given upon the earlier to occur of: (i) actual receipt; (ii) the second business day after being deposited in the U.S. mail; (iii) the business day after being deposited in Federal Express or another reputable overnight courier.

If to Ally: Ally Bank
1100 Virginia Drive
Fort Washington, Pennsylvania 19304
Att: Ms. Carol MacElree
Facsimile:

With a copy to: Emmet, Marvin & Martin, LLP
120 Broadway, 32nd Floor
New York, New York 10271

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

Att: Tyler J. Kandel, Esq.
Facsimile:

If to Firsttrust: Firsttrust Bank
15 East Ridge Pike, Suite 400
Conshohocken, Pennsylvania 19428
Att: Joseph F. Mikolaitis
Facsimile:

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

(b)(4),(b)(6) With a copy to: Schnader Harrison Segal & Lewis LLP
1600 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103
Att: Richard A. Barkasv, Esq.
Facsimile: [redacted]

If to Financial Freedom: Financial Freedom Senior Funding Corporation

Att:
Facsimile:

(b)(4),(b)(6) With a copy to: Weinstein Smith LLP
420 Lexington Avenue
New York, New York 10170
Att: Eric Weinstein, Esq.
Facsimile: [redacted]

If to Keramis
Jeanne Keramis
166 Guildford Court
West Hempstead, New York 11552
Att: Jeanne Keramis

(b)(4),(b)(6) With a copy to: Murphy & McKenna, LLC
1461 Franklin Avenue
Garden City, New York 11530
Att: Bryan A. McKenna, Esq.
Facsimile: [redacted]

If to Reimer
John Reimer
166 Guildford Court
West Hempstead, New York 11552
Att: John Reimer

16. No Third-Party Benefits. This Stipulation is made for the sole benefit of the Parties, their successors and assigns, and no other person or persons shall have any rights or remedies under or by reason of this Stipulation.

17. Binding Agreement. The Stipulation shall be binding on, and inure to the benefit of, the Parties and their successors, heirs and assigns.

18. Entire Agreement. This Stipulation constitutes the entire agreement among the Parties relating to the subject matter hereof and may not be modified, amended or terminated except by a written agreement signed by each of the Parties and approved by the Court.

19. Choice of Law. This Stipulation shall be governed by and construed in accordance the laws of the State of New York.

20. Retention of Jurisdiction. This Court shall retain jurisdiction of all matters arising under or relating to this Stipulation including, without limitation, the enforcement, interpretation, and implementation thereof.

21. Further Assurances. Reimer and/or Keramis shall, upon the request of Ally and/or Firstrust, execute and deliver such other instruments, documents, information and data, and take any further action, as may be reasonably necessary to effectuate this Stipulation, all of which shall be in a form and content acceptable to Ally and Firstrust.

22. No Waiver. No failure or delay by Ally or Firstrust or any of their respective members, officers, employees or agents in the exercise of any right under this Stipulation shall operate as a waiver thereof, and any single or partial exercise of any such right shall not preclude any later exercise of any such right. Ally or Firstrust's failure at any time to require strict performance by Reimer and/or Keramis of any provision of this Stipulation shall not thereafter affect any right under this Stipulation of Ally or Firstrust to demand strict compliance and performance.

23. Severability. If any provision of this Stipulation conflicts with applicable law, such provision shall be deemed severed from this Stipulation, and the remainder of this Stipulation shall remain in full force and effect.

24. Headings. The headings used herein are for the convenience of the Parties only and shall not be used to interpret the terms of this Stipulation.

25. Advice of Counsel.

(a) Ally, Firsttrust, Financial Freedom and Keramis each acknowledges that (i) each has consulted with independent and competent legal counsel concerning this Stipulation and (ii) this Stipulation was entered into by each knowingly and voluntarily with the assistance and advice of independent and competent legal counsel.

(b) Reimer acknowledges that he had the opportunity to consult with counsel concerning this Stipulation and knowingly, voluntarily and willingly declined from doing so.

26. Counterparts. This Stipulation may be executed in one or more counterparts by some or all of the Parties, and (a) each such counterpart shall be considered an original, and all of which together shall constitute a single Stipulation; (b) the exchange of executed copies of this Stipulation by facsimile or Portable Document Format (PDF) transmission shall constitute effective execution and delivery of this Stipulation as to the Parties for all purposes; and (c) signatures of the Parties transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

[Signature Page to Follow]

SO STIPULATED AND AGREED.

DATED: February ____, 2011

ALLY BANK

By: _____
Carol MacElree
Senior Credit Officer
1100 Virginia Drive
Fort Washington, Pennsylvania 19304

DATED: February ____, 2011

EMMET, MARVIN & MARTIN, LLP

By: _____
Tyler J. Kandel (b)(6)
Attorneys for Ally Bank
120 Broadway
New York, New York 10271

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

DATED: February ____, 2011

FIRSTTRUST BANK

By: _____
Joseph F. Mikolaitis
Executive Vice President and General
Counsel
15 East Ridge Pike, Suite 400
Conshohocken, Pennsylvania 19428

DATED: February ____, 2011

SCHNADER HARRISON SEGAL & LEWIS LLP

By: _____
Richard A. Barkasy ()
Attorneys for Firsttrust Bank
1600 Market Street, Suite 3600
Philadelphia, Pennsylvania 19103

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

DATED: February ____, 2011

**FINANCIAL FREEDOM SENIOR
FUNDING CORPORATION**

By: _____

*Financial Freedom Senior Funding Corp.
by FDIC as Receiver for Indy Mac Bank
FSB as the sole shareholder of
Financial Freedom Senior Funding Corp.*

DATED: February ____, 2011

WEINSTEIN SMITH LLP

By: _____
Eric Weinstein ()
Attorneys for Financial Freedom Senior
Corporation
420 Lexington Avenue
New York, New York 10170

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

DATED: February 9, 2011

DATED: February 9, 2011

(b)(6)

JEANNE KERAMIS
[Redacted]
West Hempstead, New York 11552

MURPHY & MCKENNA, LLC
By: [Redacted]
Bryan A. McKenna [Redacted]
Attorneys for Jeanne Keramis
1461 Franklin Avenue
Garden City, New York 11530

(b)(6)

(b)(6)

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

DATED: February 11, 2011

(b)(6)

JOHN REIMER (b)(6)
[Redacted]
166 Guildford Court
West Hempstead, New York 11552

SO ORDERED:

ARTHUR D. SPATT, U.S.D.J.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Settlement Agreement") is entered into and made effective as of the date of the final signature appearing below ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC") and Trust One Mortgage Corporation ("Trust One"). The FDIC and Trust One may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

1.1 Plaintiff alleges that on or about June 17, 2005, IndyMac Bank, F.S.B. ("IndyMac") and Trust One entered into a business relationship governed by a Seller Contract and e-MITS™ User Agreement (hereinafter "Contract").

1.2 Plaintiff alleges that Trust One sold and/or delivered mortgage loans to IndyMac pursuant to the Contract. A dispute has arisen between the Parties with respect to outstanding demands for repurchase and/or indemnity relating to those loans.

1.3 On or about April 16, 2010, the FDIC filed a lawsuit entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, FSB v. TRUST ONE MORTGAGE CORPORATION, a California Corporation* in the United States District Court, Central District of California, Case No. CV10-00474 (hereinafter "Action") seeking damages arising from the following seven mortgage loans identified in Exhibit "A" to the Settlement Agreement and Exhibit "B" to the Complaint (collectively, the "Loans").

1.4 Without admitting liability, the Parties desire to and have agreed to settle the Action upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

1.6 Payment of the Settlement Funds. Trust One shall pay the total sum of \$300,000 (Three Hundred Thousand Dollars) (the "Settlement Funds") to the FDIC. The

Settlement Funds shall be payable as follows:

a. The sum of \$10,000 (Ten Thousand Dollars) a month for eighteen months. The monthly payments shall be paid on the first day of the month beginning June 1, 2011 and continue thereafter.

b. The remaining balance of \$120,000 shall be paid on December 1, 2012.

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

(b)(4)

(b)(4)

d. In the event that the first of any month during the payment term falls on a Saturday, Sunday or holiday, the payment will be due the next business day.

1.7 Concurrently with the signing and delivery of this Settlement Agreement, Trust One shall execute a Stipulation for Entry of Judgment in the amount of \$300,000 (Three Hundred Thousand Dollars) in the form attached hereto as Exhibit 1. The Stipulation for Entry of Judgment is incorporated by reference herein and their terms are made a part of this Settlement Agreement.

1.8 In the event Trust One defaults by failing to make a timely payment as set forth in this Settlement Agreement, the FDIC shall give notice of the default and notice of its intent to enter Judgment (Pursuant to Stipulation) via mail and email to Benjamin Morton, Esq. Gordon & Rees, LLP, 101 W. Broadway, Suite 2000, San Diego, CA 92101, F: [REDACTED] and to TRUST ONE via mail, c/o Brady Bunte at 108 Pacifica, Suite 300, Irvine, CA 92618, or any other address that TRUST ONE shall so advise the FDIC's counsel in writing.

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

1.9 Trust One shall have ten (10) calendar days from date of the notice to cure the default. In the event Trust One fails to cure the default within ten (10) days, the FDIC shall retain all consideration it received, and it may, in its sole discretion, seek to enter the Judgment (Pursuant to Stipulation) against Trust One, and enforce said Judgment against Trust One. Judgment may be entered by ex parte application (without testimony or trial and Trust One waives the right to a court and/or jury trial) with notice given to Trust One as set forth above. The FDIC shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, attorneys' fees and costs incurred in collecting all sums owing.

1.10 Within five (5) business days of the FDIC's counsel's receipt of the fully

executed Settlement Agreement, the FDIC's counsel shall file a Stipulation for Dismissal of the Action With Prejudice.

1.11 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests the court retain jurisdiction over the Parties to enforce this Settlement Agreement and, if necessary, the Judgment (Pursuant to Stipulation).

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

RELEASE

1.13 Unknown Claims. Each Party acknowledges that this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which that Party may have against the other Party arising from the Action, and the obligation to repurchase and/or indemnify for losses associated with the Loans. Each Party hereby expressly waives application of *California Civil Code §1542* and any other similar statute or rule with respect to the Loans as provided for herein.

1.14 Each Party certifies that they have read and understood the following provisions of *California Civil Code §1542*, which states in pertinent part as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

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

but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

1.16 Each Party hereby fully, finally, and forever releases and discharges the other Party, and any and all of its respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, brokers, shareholders, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, and/or employees of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the Action, the obligation to repurchase and/or indemnify for losses associated with the Loans, the claims and causes of action that were or could have been asserted relating to the obligation to repurchase and/or indemnify for losses associated with the Loans, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the Loans. It is expressly understood that Trust One is not releasing other parties (i.e. beyond the FDIC and its released persons and entities) related to the Loans, including but not limited to the borrowers, loan brokers, appraisers, escrow companies, insurance and title companies involved with the Loans.

1.17 Notwithstanding any other provision in this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intent to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

1.18 Notwithstanding any other provision in this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against Trust One arising out of existing or failed financial institutions other than IndyMac.

1.19 Conditions of Execution. Each Party acknowledges and warrants that its

execution of this Settlement Agreement is free and voluntary.

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

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

1.22 Governing Law. The Parties agree to submit to the Courts of the County of Orange, California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

1.23 Attorneys' Fees. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

1.24 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

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

1.26 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.

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

the plural shall include the singular.

1.28 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.

1.29 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.

1.30 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.

1.31 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.

1.32 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 Settlement Agreement shall not be modified except in a writing signed by the Parties or their authorized representatives.

[SIGNATURES ON FOLLOWING PAGE]

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

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

For: Trust One Mortgage Corporation

(b)(6)

By:

By: _____

Name: Jack S. Duncan

Name: _____

Title: Counsel

Title: _____

Date: 5/13/11

Date: _____

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

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

For: Trust One Mortgage Corporation

By: _____

By: Brady Bunte

Name: _____

Name: _____

[Redacted Signature Box]

(b)(6)

Title: _____

Title: President

Date: _____

Date: 05/12/2011

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of May 25, 2011, by and between the following undersigned parties: The Federal Deposit Insurance Corporation, as Receiver of IndyMac Bank, F.S.B ("FDIC-R"), and Richard H. Wohl. The FDIC-R and Richard H. Wohl may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

This Agreement is entered into in reference to the following:

1. Prior to July 11, 2008, IndyMac Bank, F.S.B. (the "Bank") was a federally chartered bank operating throughout the United States of America with its principal place of business in the State of California.

2. On July 11, 2008, the Office of Thrift Supervision closed the Bank, and the FDIC-R was appointed receiver of the Bank pursuant to 12 U.S.C. § 1821(c). In accordance with 12 U.S.C. § 1821(d), the FDIC-R succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to the Bank's assets. Among the assets to which the FDIC-R succeeded were any and all claims, demands, and causes of actions against the Bank's former directors, officers and employees arising from the performance, nonperformance and/or manner of performance of their respective functions, duties and acts as directors, officers and/or employees of the Bank.

3. The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of litigation. Among other things, the Parties have agreed that this Agreement shall be a settlement and release of all claims held by the FDIC-R, including its agents, successors and assigns, for all claims now or hereafter held by the FDIC-R against Richard H. Wohl that arise from or relate to the performance, non-performance or manner of performance of Richard H. Wohl's functions, duties and/or actions as an employee, officer

and/or director of the Bank, as more specifically set forth below.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency and receipt of which consideration is hereby acknowledged, the Parties agree as follows:

Section I: Payment to FDIC-R

A. As an essential covenant and condition to this Agreement, Richard H. Wohl shall pay to the FDIC-R the sum of One Million Four Hundred Thousand And No/100 Dollars (\$1,400,000.00) of which One Million Two Hundred And Fifty Thousand and No/100 Dollars (\$1,250,000.00) may be paid directly by appropriate insurance carrier(s) (hereinafter referred to as the "Contributing Carrier(s)") and One Hundred And Fifty Thousand and No/100 Dollars (\$150,000.00) shall be paid by Richard H. Wohl from his personal funds. The settlement payment of One Million Four Hundred Thousand And No/100 Dollars (\$1,400,000.00) by Richard H. Wohl is referred to herein as the "Settlement Funds."

B. With respect to the One Hundred And Fifty Thousand and No/100 Dollars (\$150,000) to be paid by Richard H. Wohl to the Settlement Funds, Richard H. Wohl shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy.

C. That portion of the Settlement Funds to be paid by the Contributing Carrier(s) shall be wired to:

(b)(2),(b)(4) BANK: Federal Home Loan Bank

(b)(2),(b)(4) ROUTING #

FOR CREDIT TO: FDIC National Liquidation Account

(b)(2),(b)(4) ACCOUNT #:

FDIC CONTACT PERSON: Richard S. Gill, Tel. 703 562 2425

Any payment by Chartis may be made by check payable to the Federal Deposit Insurance Corporation and delivered to the Federal Deposit Insurance

Corporation, Attention Richard Gill, 3501 Fairfax Drive, Room B-7020, Arlington, Virginia 22226-3500.

D. That portion of the Settlement Funds to be paid by the Contributing Carrier(s) shall be delivered to FDIC-R by direct wire transfer or, for Chartis, check as described in Paragraph C of this Section I, as follows:

The Contributing Carrier(s) shall pay the remainder of the Settlement Funds, in the amount of One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000) within eleven (11) business days of the later of (1) the date the Contributing Carrier(s) are notified that the United States Bankruptcy Court for the Central District of California has entered an approval order that has become final as required by Section II of this Agreement; or (2) the date that Federal Insurance Company makes the payment(s) contemplated by paragraph 1 of the Stipulation re Compromise to Permit Advancement of Specified Costs, Charges and Expenses to be filed contemporaneously with the stipulation seeking the order discussed in Section II of this Agreement. The parties hereto, by and through their respective legal counsel, may agree in writing one or more times to extend this eleven day period for any additional period(s); such writing may be simply evidenced by an unsigned exchange of e-mail communications evidencing the parties' agreement to any such extension. Service of notice under this subsection shall be effective upon the date of transmittal by Federal Express or other overnight means of delivery to the following:

Allison Rose, Esq., Chubb & Son, a division of Federal Ins. Co., 555 South Flower Street, 4th Floor, Los Angeles, California 90071

Sarah C. Rosell, Chartis, 175 Water Street, New York, New York 10038

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

Notice shall also be provided by electronic mail to Allison Rose at

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

[redacted] Sarah Rosell at [redacted], and Mary Jo

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

Barry at [redacted]

E. Richard H. Wohl shall pay his portion of the Settlement Funds, namely, One

Hundred and Fifty Thousand and No/100 Dollars (\$150,000), from his personal funds on or before June 1, 2011. Richard H. Wohl may make the payment of this sum by delivering a check to payable to the Federal Deposit Insurance Corporation and delivered to the Federal Deposit Insurance Corporation, Attention Richard Gill, 3501 Fairfax Drive, Room B-7020, Arlington, Virginia 22226-3500 on or before June 1, 2011. Richard Gill shall negotiate this check only upon receiving the sum of One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000) from the Contributing Carrier(s). In the event the Contributing Carrier(s) fail to make payment of said sum within the time provided in this Agreement, or any extension(s) thereof, Richard Gill shall forthwith return the check of Richard H. Wohl to his legal counsel Williams & Connolly, Washington, D.C., Attn: John K. Villa or Stephen D. Andrews. The releases of claims contained in Section III herein are expressly conditioned on the payment of the Settlement Funds and the actual receipt of funds via checks by Richard H. Wohl and the Contributing Carrier(s).

Section II: Conditions

A. The FDIC-R and Richard H. Wohl shall seek from the Bankruptcy Court in the proceedings captioned *In re IndyMac Bancorp*, United States Bankruptcy Court, Central District of California, Case No. 2:08-bk-21752-BB the entry of a Bankruptcy Court order (hereinafter the "Order"), in a form to be drafted by the Parties and approved by the Contributing Carrier(s), which approval shall not be unreasonably withheld. Notice of the requested relief and Order shall be given to all of the Assureds who were parties to the Stipulation that was approved by the December 15, 2008 Order, and any amended orders thereto, of the United States Bankruptcy Court, Central District of California entitled "Order Approving Stipulation Resolving Motions of Current and/or Former IndyMac Directors and Officers for Determination that Certain Insurance Proceeds Are Not Subject to the Automatic Stay and/or Relief from the Automatic Stay under 11 U.S.C. § 362," Indymac MBS, the FDIC, and all claimants who have commenced litigation against one or more Assureds.

B. The Order shall (i) permit the Contributing Carrier(s) to pay the \$1,250,000 referenced

in paragraph I.A. and I.D above notwithstanding the effect, if any, of the automatic stay; (ii) deem the \$1,250,000 authorized to be paid by the Contributing Carrier(s) as a Loss (as that term is defined in the Lloyd's Policy and the excess policies issued by the Contributing Carrier(s)) which reduces the limits of liability available under the Contributing Carrier(s)' excess policies; and (iii) effective upon payment of the \$1,250,000, discharge the Contributing Carrier(s) from any liability specifically related to such payment to any Assureds (as defined in the Lloyd's Policy and the excess policies issued by the Contributing Carrier(s)) or other claimants, including but not limited to IndyMac MBS.

C. The Order shall not become final unless and until the Order, including the provisions of Section II.B. hereto, is approved by the Bankruptcy Court, or higher court of competent jurisdiction, as to which the time for filing a notice of appeal has expired with no notice of appeal having been filed, or if a notice of appeal has been timely filed, as to which such appeal has been fully and finally resolved.

D. Concurrently with the execution of this Agreement, the Parties shall enter into the Tolling Agreement in the form and substance of Exhibit "A" attached hereto and incorporated herein by this reference.

Section III: Releases

A. **Release of Richard H. Wohl by FDIC-R** Effective upon payment of the Settlement Funds pursuant to Section I, above, the FDIC-R, for itself and its agents, successors and assigns, hereby releases and discharges Richard H. Wohl, his immediate family members, heirs, executors, administrators, successors, assigns, attorneys, legal representatives, insurers, re-insurers, and agents of each of them from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, known or unknown, belonging to the FDIC-R, that are based upon, arise from or relate to: (1) the performance, nonperformance, or manner of performance of Richard H. Wohl's functions, duties and actions as an employee, officer and/or director of the Bank and/or Indymac Bancorp, Inc.; and/or (2) the

fact that Richard H. Wohl was an officer, director, or employee of the Bank and/or Indymac Bancorp, Inc.

B. Release of FDIC-R by Richard H. Wohl Effective simultaneously with the release granted in Paragraph A of this Section III, Richard H. Wohl, on behalf of himself and his heirs, executors, administrators, agents, representatives, successors and assigns, hereby releases and discharges FDIC-R, and its employees, officers, directors, attorneys, agents, representatives, successors and assigns, from any and all known and unknown claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to, or to the performance, nonperformance, or manner of performance of Richard H. Wohl's functions, duties and actions as an employee, officer and/or director of the Bank and/or Indymac Bancorp, Inc.

C. Express Reservations From Release by FDIC-R

1. Notwithstanding any other provision contained in this Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:

a. against Richard H. Wohl, in a capacity other than an employee, officer and/or director of the Bank and/or IndyMac Bancorp, Inc. for liability, if any, as the maker, endorser or guarantor of any promissory note or other evidence of indebtedness payable or owed by him to FDIC-R, other financial institutions, or any other person or entity, including without limitation, any claims acquired by Federal Deposit Insurance Corporation in its corporate capacity or as successor in interest to the Bank; and

b. against any person or entity not expressly released in this Agreement.

c. Nothing in this release releases, or intends to release, Michael Perry, his immediate family members, heirs, executors, administrators, successors, assigns, attorneys, legal representatives, insurers, re-insurers, and agents in any way for anything related to any conduct or omissions of Michael Perry.

2. Notwithstanding any other provision hereof, this Agreement does not purport to

waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district.

3. The FDIC-R represents and warrants that, as of the date of this Agreement, it has not transferred any claim, cause of action or other right that would be released hereunder if such claim, cause or action or right had not been previously transferred by the FDIC-R prior to the date of this Agreement, and to that end, the Parties agree that the release by the FDIC-R set forth in Paragraph A of Section III is a full and complete release of all such claims, causes of action and rights.

D. Civil Code Section 1542 Waiver There is a risk that subsequent to the execution of this Agreement the parties hereto will discover, incur or suffer loss, damages or injuries which are in some way related to the matters released, but which are unknown or unanticipated at the time that this Agreement is executed. The parties herein hereby assume this risk and understand that this Agreement shall apply to all unknown or unanticipated results of, or related to, the matters released above, as well as those known and anticipated. The parties hereby expressly acknowledge that they are familiar with Section 1542 of the California Civil Code which provides:

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.

The parties understand and acknowledge the significance and consequence of this specific waiver of Section 1542. Having been advised and encouraged to consult with an attorney of their choice concerning their rights and this Agreement and having either thoroughly discussed all aspects of their rights and this Agreement with an attorney to the full extent that they wanted prior to signing this Agreement or voluntarily chosen not to do so, the parties herein

expressly waive and relinquish any and all rights and benefits which they may have under Section 1542 of the Civil Code (to the extent it is otherwise applicable) to the full extent that such rights and benefits may be lawfully waived and relinquished pertaining to the subject matter of this Agreement.

Section IV: Representations and Acknowledgements

A. No Admission of Liability The Parties acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims, and that this Agreement is not an admission or evidence of liability by any of them regarding any claim.

B. Execution in Counterparts This Agreement may be executed in counterparts by the Parties and their legal counsel and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties and counsel; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Party subscribed thereto upon the execution by all Parties to this Agreement. Photocopied signatures, signatures exchanged by facsimile machine and signatures exchanged by e-mail PDF shall be as effective as an original signature.

C. Binding Effect Each of the undersigned signatories for the Parties represents and warrants that they are a Party hereto or are authorized to sign this Agreement on behalf of the respective Party for which they are signing, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective heirs, executors, administrators, representatives, successors and assigns.

D. Specific Representations and Warranties Richard H. Wohl swears and affirms that all financial information in the affidavits and financial statements prepared by him and provided to the FDIC-R was true and accurate at the time of his submission.

E. Reasonable Cooperation The undersigned Parties agree to cooperate in good

faith to effectuate all the terms and conditions of this Agreement.

F. **Choice of Law** This Agreement shall be interpreted, construed and enforced according to the applicable laws of the State of California.

G. **Entire Agreement and Amendments** This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the Party or Parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s). This Agreement is an integrated agreement.

H. **Advice of Counsel** The Parties hereby acknowledge that they have consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to each Party by his or its counsel.

I. **Enforcement of Agreement** In the event that any Party brings suit to enforce the terms of this Agreement, or based on an alleged breach of the terms hereof, the Parties agree to exclusive venue in the United States District Court for the Central District of California, or in the event that the said federal court does not have jurisdiction, the Superior Court of the State of California, County of Los Angeles. In such event, the prevailing Party shall be entitled to recover all costs incurred from the non-prevailing Party, including reasonable attorneys' fees.

J. **Time is of the Essence** Time is of the essence in this Agreement, including specifically, payment of the Settlement Funds to FDIC-R as set forth in Section I of this Agreement.

READ CAREFULLY BEFORE SIGNING

IN WITNESS WHEREOF, this AGREEMENT is executed and effective on the date first above written.

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of IndyMac Bank, F.S.B

(b)(6)

By:

[Redacted Signature Box]

Counsel

Approved as to form:

NOSSAMAN LLP
STEPHEN P. WIMAN

By: _____
STEPHEN P. WIMAN

Attorneys for FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of IndyMac Bank, F.S.B.

RICHARD H. WOHL

WILLIAMS & CONNOLLY LLP
JOHN K. VILLA

By: _____
JOHN K. VILLA

Attorneys for RICHARD H. WOHL

TOLLING AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THIS TOLLING AGREEMENT is made and entered into by and between the Federal Deposit Insurance Corporation, acting in its capacity as Receiver of IndyMac Bank, F.S.B., Pasadena, California (hereinafter, the "Bank") (hereinafter the "FDIC-R"), and Richard H. Wohl (hereinafter "Wohl") to be effective as of May __, 2011, as follows:

1. The period commencing July 1, 2011, and ending at 5:00 p.m. Pacific Standard Time ("PST") on December 31, 2011, shall hereinafter be referred to as the "Tolling Period."

2. During the Tolling Period, any and all federal or state statutes of limitations or any rule of law or equity or any contractual provision of similar import to a federal or state statute of limitations, including, without limitation, waiver, estoppel, or laches, (collectively "Limitations Period(s)") shall be tolled and shall not run and this time period shall not be pleaded, asserted, including in any calculation of time elapsed, or relied upon in any legal argument or proceeding however styled (e.g., by claim, defense, cross-claim, counterclaim, third-party claim, or the like) for purposes of computing the running of any Limitations Period in regard to any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, known or unknown, belonging to the FDIC-R, that are based upon, arise from or relate to: (1) the performance, nonperformance, or manner of performance of Wohl's functions, duties and actions as an employee, officer and/or director of the Bank and/or Indymac Bancorp, Inc.; and/or (2) the fact that Wohl was an officer, director, or employee of the Bank and/or Indymac Bancorp, Inc. (hereinafter the "Tolled Claims").

3. Any of the Tolled Claims that are filed during the Tolling Period shall be considered by the parties for purposes of any Limitations Period as having been filed July 1, 2011. Consistent with paragraph 2, above, Wohl shall not claim that any Tolled Claim filed during the Tolling Period is untimely under any Limitations Period if such claim would not have been untimely had it been filed on July 1, 2011.

4. During the Tolling Period, the FDIC-R shall not file any of the Tolled Claims against Wohl without providing Wohl seven (7) days advanced written notice of the FDIC-R's intent to file such claim. Such notice shall be provided to Wohl by overnight mail or its equivalent or by e-mail in either case addressed to John Villa and Stephen Andrews, at Williams & Connolly, 725 Twelfth Street, N.W., Washington, D.C. 20005, [REDACTED]

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

5. Notwithstanding the above, this Tolling Agreement shall not apply to, affect, or delay in any way any currently pending or future action(s) arising out of any claim or cause of action governed by Section IIIC1 or IIIC2 of the Settlement Agreement between the parties executed concurrently herewith.

6. Nothing in this Tolling Agreement shall be read as reducing the time within which the FDIC-R may bring any suit for the Tolled Claims, except as required by the notice provisions of paragraph 4, above. Notwithstanding anything in this Tolling Agreement to the contrary, the FDIC-R reserves the right to file any Tolled Claims during the Tolling Period against Richard H. Wohl prior to receipt of full payment of the Settlement Funds pursuant to the terms of the Settlement Agreement between the parties executed herewith. If the FDIC-R files any such Tolled Claims, the Settlement Agreement shall terminate. However, such filing of the Tolled Claims shall in no way terminate or affect this Tolling Agreement or the Tolling Period or their applicability to the Tolled Claims.

7. This Tolling Agreement, the parties' Settlement Agreement entered concurrently herewith, and any Stipulation and Order entered by the FDIC-R and Wohl and others which the parties may file in the United States Bankruptcy Court, Central District of California, related to the Settlement Agreement, constitute the entire agreement between the undersigned parties with respect to the subject matter hereof, and any prior oral or written statements concerning the matters addressed in such agreements are merged in the agreements for all purposes and shall be of no force and effect.

8. This Tolling Agreement shall be binding upon and inure to the benefit of the undersigned parties and their respective heirs, executors, administrators, representatives, successors and assigns.

9. This Tolling Agreement may be executed in any number of counterparts with the same effect as if the signatures on each counterpart were upon a single instrument. All counterparts, taken together, shall constitute the Tolling Agreement. PDF e-mail signatures and signatures transmitted and received by facsimile shall be as effective as original signatures.

10. Each of the signatories severally represents and warrants that the signatory has the full power and authority to execute this Tolling Agreement on behalf of the party for whom the signatory has signed.

11. The parties hereto agree that the mutual promises contained herein constitute good and valuable consideration, receipt of which they acknowledge.

12. This Tolling Agreement shall be interpreted under federal law or, in the absence of any applicable such law, under the substantive law of the State of California. This paragraph shall apply only to disputes arising out of this Tolling Agreement and shall not be construed to modify any choice of law provisions or analysis otherwise applicable in any other dispute between the parties and each party reserves the right to assert that other state or federal law may apply to such other potential disputes.

13. This Tolling Agreement shall not be construed as an admission of liability by any party, nor shall it be admitted into evidence except as may be necessary to enforce its terms.

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of IndyMac Bank, F.S.B

(b)(6)

By:

[Redacted Signature]

Counsel

Approved as to form:

NOSSAMAN LLP
STEPHEN P. WIMAN

By: _____
STEPHEN P. WIMAN

Attorneys for FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver of IndyMac Bank, F.S.B.

RICHARD H. WOHL

WILLIAMS & CONNOLLY LLP
JOHN K. VILLA

By: _____
JOHN K. VILLA

Attorneys for RICHARD H. WOHL

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Settlement Agreement") is entered into and made effective as of the 23rd day of June 2011 ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC") and CTX Mortgage Company, LLC ("CTX"). The FDIC and CTX may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

1.1 CTX brokered, sold and/or delivered mortgage loans to IndyMac Bank, FSB pursuant to various written agreements. A dispute has arisen between the Parties with respect to outstanding demands for repurchase and/or indemnity. Specifically, IndyMac Bank, FSB made demands to CTX for repurchase and/or indemnification based upon claims that CTX breached representations and warranties as set forth in the written agreements.

1.2 Without admitting liability, the Parties desire to and have agreed to settle all repurchase and indemnification claims relating to the mortgage loans brokered, sold and/or delivered by CTX to IndyMac Bank, FSB (collectively, the "Loans") upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

1.4 **Payment of the Settlement Funds.** CTX shall pay the total sum of \$375,000 (Three Hundred Seventy Five Thousand Dollars) (the "Settlement Funds") by no later than June 30, 2011. The Settlement Funds shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number:

(b)(4)

Routing Number: Reference: CTX Settlement.

RELEASE

1.5 **Unknown Claims.** Each Party acknowledges that this Settlement

Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which that Party may have against the other Party arising from the obligation to repurchase and/or indemnify for losses associated with the Loans. Each Party hereby expressly waives application of *California Civil Code §1542* and any other similar statute or rule with respect to the Loans as provided for herein.

1.6 Each Party certifies that they have read and understood the following provisions of *California Civil Code §1542*, which states in pertinent part as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

1.7 Each Party understands and acknowledges that the significance and consequence of its waiver of *California Civil Code §1542* is that even if any Party should eventually suffer additional damages arising out of the obligation to repurchase and/or indemnify for losses associated with the Loans, the claims and causes of action that were or could have been asserted relating to the obligation to the repurchase and/or indemnify for losses associated with the Loans, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the Loans, that Party will not be able to make any claim against the other Party for those damages. Furthermore, each Party acknowledges that it consciously intends these consequences even as to claims for damages that may exist as of the date of this release but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

1.8 Each Party hereby fully, finally, and forever releases and discharges the other Party, and any and all of its respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, shareholders, independent contractors, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, and/or employees of and from any and all actions, causes

of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the obligation to repurchase and/or indemnify for losses associated with the Loans, the claims and causes of action that were or could have been asserted relating to the obligation to repurchase and/or indemnify for losses associated with the Loans, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the Loans.

1.9 Notwithstanding any other provision in this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intent to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

1.10 Notwithstanding any other provision in this Settlement Agreement, the Parties do not release, and expressly preserve fully and to the same extent as if the Settlement Agreement had not been executed any claims arising out of or in connection with existing or failed financial institutions other than IndyMac Bank, FSB.

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

1.12 The FDIC has not waived, transferred or assigned the claims released by the FDIC herein. This Settlement Agreement has been reviewed and approved by the FDIC and the execution and delivery hereof by the FDIC has been duly authorized by all necessary consents, approvals and all other applicable requirements. No parties not expressly made a party in this Settlement Agreement are required to join in this Settlement Agreement on behalf of the FDIC in order to make this Settlement Agreement, the releases contained herein and the documents to be executed by the FDIC pursuant to this Settlement Agreement valid, binding and enforceable against the FDIC.

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

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

1.15 Governing Law. The Parties agree to submit to the Courts of the City and County of Los Angeles, California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

1.16 Attorneys' Fees. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

1.17 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

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

1.19 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.

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

1.21 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.

1.22 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.

1.23 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.

1.24 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.

1.25 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 Settlement 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.

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

For: **CTX Mortgage Company, LLC**

(b)(6)

(b)(6)

By:

[Redacted Signature]

By:

[Redacted Signature]

Name: Richard S. Gik

Name: Michael K. Sullivan

Title: Counsel

Title: SVP, General Counsel

Date: 6-27-11

Date: 6/23/2011

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Federal Deposit Insurance Corporation,
as receiver for IndyMac Bank, F.S.B.

Court File No.: 09-CV-3673
(JRT/LIB)

Plaintiff,

**SETTLEMENT AGREEMENT AND
RELEASE**

v.

Emily L. Poulson, Northland Appraisal
Service, and Cascade Mortgage, Inc.,

Defendants.

NOW THEREFORE, in consideration of the covenants, promises and payments set forth herein, Plaintiff Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B (hereinafter referred to as "FDIC") and Defendants Emily Poulson ("Poulson"), Northland Appraisal Service ("Northland") and Cascade Mortgage, Inc. ("Cascade") do hereby agree as follows:

1. PAYMENT AND RELEASE:

FDIC agrees to accept payment of **One Hundred Twenty-Eight Thousand and 00/100 Dollars (\$128,000.00)** according to the following terms:

- A) Cascade and its insurer agree to pay FDIC a total of **One Hundred Thousand and 00/100 Dollars (\$100,000.00)** immediately upon execution of this Settlement Agreement and Release by FDIC, and FDIC hereby acknowledges receipt of \$100,000.00 from Cascade and its insurer.
- B) Cascade, individually, agrees to pay FDIC a total of **Twenty-Five Thousand and 00/100 Dollars (\$25,000.00)** according to the following terms:
 - i) Cascade will pay FDIC \$10,000.00 within forty-five (45) days of June 1, 2011 by certified check made payable to "RJ Landau Partners PLLC, Attorneys for FDIC;"

- ii) Cascade will pay \$15,000.00 within ninety (90) days of June 1, 2011 by certified check made payable to "RJ Landau Partners PLLC, Attorneys for FDIC;"
 - iii) As part of the consideration for the Release obtained herein Cascade agrees to execute Confessions of Judgment, further described in paragraph 5 of this Settlement Agreement and Release, as security for the \$25,000.00 due and owing under paragraph 1.B) of this Settlement Agreement and Release, the terms of which are specifically set forth in the Confessions of Judgment which are incorporated herein.
- C) Poulson and Northland agree to pay FDIC a total of **Three Thousand and 00/100 Dollars (\$3,000.00)** with in forty-five (45) days of June 1, 2011 by certified check made payable to "RJ Landau Partners PLLC, Attorneys for FDIC."

The foregoing payments are made by Cascade, Cascade's insurer, Poulson and Northland, and accepted by FDIC, in full compromise, settlement and satisfaction of, and as sole consideration for the final release and discharge of, all actions, claims and demands whatsoever, that now exist, or may hereafter accrue, by and between Defendants Cascade, Cascade's insurer, Defendants Northland and Poulson (hereinafter referred to collectively as the "Released Parties"), FDIC, and any other person, corporation, association or partnership charged with responsibility for damages to the parties herein as a result of and arising from certain mortgage loans issued by the former IndyMac Bank, F.S.B. ("IndyMac") identified as first mortgage loan number [redacted] and second mortgage loan number [redacted] which were issued to finance the purchase of real property located at 521 S. 7th Street, Unit 105, Minneapolis, Minnesota (the "Loans"), and the consequences flowing therefrom, as further described in the pleadings filed in United States District Court in the above-captioned matter, and for which the parties claim any of the Released Parties are legally liable in damages.

By signing this Settlement Agreement and Release, FDIC and each of the Released Parties acquit and forever discharge each other and any of their employees, agents and representatives as well as their officers, directors, attorneys, insurers, reinsurers, subsidiaries, affiliates, predecessors and successors-in-interest, from any and all claims causes of actions, demands, liabilities, court costs, attorney fees, interest, costs, and expenses and damages whatsoever including but not limited to all known and unknown and anticipated and unanticipated damages as a result of and arising from the Loans.

2. NO ADMISSION OF LIABILITY:

It is understood and agreed that the Released Parties admit no liability to FDIC, or others, as a result of and arising from the Loans, and for which said liability is expressly denied by the Released Parties.

3. PARTIES TO BEAR THEIR OWN COSTS:

FDIC and the Released Parties agree to bear their own costs and attorney fees incurred in connection with the disputes set forth herein and the resolution thereof.

4. ADDITIONAL DOCUMENTS - STIPULATION FOR DIMISSAL:

FDIC and the Released Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and the intent of this Settlement Agreement and Release. The parties agree that their respective counsel shall execute a stipulation for dismissal with prejudice of all claims and cross-claims filed by any party in above captioned United States District Court action.

5. ADDITIONAL DOCUMENTS - CONFESSIONS OF JUDGMENT:

Cascade agrees to execute two Confessions of Judgment. One Confession of Judgment shall be in the amount of **Ten Thousand and 00/100 Dollars (\$10,000.00)** and secure the payment due within forty-five (45) days of June 1, 2011 as described in paragraph 1.B) of this Settlement Agreement and Release. One Confession of Judgment shall be in the amount of **Fifteen Thousand and 00/100 Dollars (\$15,000.00)** and secure the payment due within ninety (90) days of June 1, 2011 as described in paragraph 1.B) of this Settlement Agreement and Release. These documents shall be in a form acceptable to FDIC. Cascade agrees to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to these Confessions of Judgment and the intent of this Settlement Agreement and Release. FDIC agrees to destroy the Confession of Judgment in the amount of **Ten Thousand and 00/100 Dollars (\$10,000.00)** upon full payment of \$10,000 within forty-five (45) days of June 1, 2011. FDIC agrees to destroy the Confession of Judgment in the amount of **Fifteen Thousand and 00/100 Dollars (\$15,000.00)** upon full payment of \$15,000 within ninety (90) days of June 1, 2011. Cascade expressly consents to entry of the Confessions of Judgment as set forth above without notice of presentment, objections to form waived, if FDIC does not receive full and timely payment from Cascade according to the terms of this Settlement Agreement and Release.

6. SECTION HEADINGS:

Section headings contained herein are for the purposes of convenience only and are not intended to define or limit the contents of said sections.

7. CONSTRUCTION:

FDIC and the Released Parties agree that this Settlement Agreement and Release shall be construed without regard to the party or parties responsible for its preparation and will be deemed to be prepared jointly by FDIC and the Released Parties. In resolving any ambiguity or uncertainty relating to this Settlement Agreement and Release, FDIC and the Released Parties agree that no consideration or weight shall be given to the identity of the party or parties drafting the document.

8. GOVERNING LAW:

This Settlement Agreement and Release shall be deemed to be a contract under the laws of the State of Minnesota and enforced in exclusive accordance with the law of the State of Minnesota, without regard to its conflict of laws provisions. Any dispute arising hereunder shall be adjudicated in United States District Court, District of Minnesota.

9. ENTIRE AGREEMENT – INTEGRATION CLAUSE:

This Settlement Agreement and Release, along with the additional documents contemplated by this agreement, constitutes the entire agreement of FDIC and the Released Parties with respect to the subject matter hereof and may not be modified, amended or terminated except by written agreement by the parties. No promise, inducement or agreement not herein expressed has been made. The terms of this Settlement Agreement and Release are contractual and not a mere recital.

10. SURVIVAL:

Any enforceable provision of this Settlement Agreement and Release shall remain in full force and effect, notwithstanding that any other provision or provisions of this document may be determined to be unenforceable.

11. AUTHORITY TO EXECUTE:

Any person or entity executing this Settlement Agreement and Release on behalf of FDIC or the Released Parties represents and warrants that he or she or is

duly authorized to enter into this Settlement Agreement and Release on behalf of that party.

12. EXECUTION AND COUNTERPARTS:

This Settlement Agreement and Release may be executed in any number of multiple originals, each of which shall be deemed an original for all purposes. This Settlement Agreement and Release may be executed in simultaneous counterparts, each of which shall be considered an original for all purposes. FDIC and the Released Parties further contemplate that this Settlement Agreement and Release may be executed by facsimile and/or email attachment, and that certain actions may be taken in reliance on faxed or emailed signatures by the parties hereto. Accordingly, the parties hereto agree that a faxed or emailed signature will have the same legal effect as physical delivery of an original signature. Any party submitting a faxed or emailed signature will deliver the original signature to counsel for the other party as soon as practicable, but no later than seven (7) business days following transmission by facsimile or email attachment.

13. KNOWING AND VOLUNTARY FULL FINAL RELEASE OF ALLCLAIMS:

FDIC and the Released Parties hereby affirm and acknowledge that they have read the foregoing Settlement Agreement and Release and they have had consulted with their attorney prior to signing and executing this document. FDIC and the Released Parties agree that the provisions set forth in this Settlement Agreement and Release are written in language understandable to them and further affirm that they understand the meaning of the terms of this Settlement Agreement and Release, and that they understand the effect of this Settlement Agreement and Release herein. FDIC and the Released Parties acknowledge that they enter into this Settlement Agreement and Release freely and voluntarily.

**FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
INDYMAC BANK, F.S.B.**

Date: 7-18-11

By:

[Redacted Signature]

(b)(6)

Its: Counsel

SIGNATURE PAGE TO SETTLEMENT AGREEMENT AND RELEASE, *FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC BANK, F.S.B. v. EMILY POULSON, NORTHLAND APPRAISAL SERVICE, AND CASCADE MORTGAGE, INC.*, UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, CASE NO. 09-CV-3673 (JRT/LIB)

CASCADE MORTGAGE, INC.

Date: 6-13-11

By



(b)(6)

Femi Oriogun

Its: Vice President

**SIGNATURE PAGE TO SETTLEMENT AGREEMENT AND RELEASE, FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC BANK, F.S.B. v. EMILY POULSON, NORTHLAND APPRAISAL SERVICE, AND CASCADE MORTGAGE, INC., UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, CASE NO. 09-CV-3673
(JRT/LIB)**

Date: 7/19/11

[Redacted Signature]

(b)(6)

Emily Poulson

**NORTHLAND APPRAISAL
SERVICE**

Date: 7/19/11

[Redacted Signature]

(b)(6)

By:

Emily Poulson

Its: President

SIGNATURE PAGE TO SETTLEMENT AGREEMENT AND RELEASE, *FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC BANK, F.S.B. v. EMILY POULSON, NORTHLAND APPRAISAL SERVICE, AND CASCADE MORTGAGE, INC.*, UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, CASE NO. 09-CV-3673
(JRT/LIB)

RELEASE AND SETTLEMENT OF ALL CLAIMS

This is a Release and Settlement of All Claims ("Agreement"), dated as of the last date below, by and among Federal Deposit Insurance Corporation, as a Receiver for IndyMac Bank, F.S.B. ("FDIC"), and William Grba & Associates, Inc. ("Grba"), collectively referred to herein as the "Parties."

BACKGROUND

Whereas, Grba performed an appraisal of the property located at 1621 Dodge Avenue, Evanston, Illinois ("Subject Property").

Whereas, Grba's appraisal of the Subject Property was submitted to IndyMac Bank, F.S.B. in connection with a mortgage loan transaction.

Whereas, FDIC filed a complaint in the District Court for the Northern District of Illinois, against Success Title Services, Inc. ("STS"), in an action titled *Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B. v. Success Title Services, Inc.* (Case No. 09-CV-04867) (the "Lawsuit").

Whereas, STS filed a third-party complaint, seeking contribution, against Grba in the Lawsuit.

Whereas, Grba denies the allegations contained in the third-party complaint.

The Parties have agreed, without concession of liability or fault, to compromise all disputes between and among them relating thereto on the terms set forth below.

AGREEMENT

In consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties by execution of this Agreement, the Parties agree as follows:

1. Grba and/or its insurer, General Star Insurance Company, shall pay FDIC, the sum of Fifty Thousand Dollars (\$50,000.00) (the "Settlement Payment"). The Settlement Payment shall be made payable to "RJ Landau Partners PLLC, Attorneys for Federal Deposit Insurance Corporation" within fifteen (15) days of the execution of this Agreement by FDIC. The Settlement Payment represents full settlement and release of all claims by and between the Parties in relation to the Subject Property, including but not limited to any and all claims for attorneys' fees and costs.

2. Upon full execution of this Agreement, and as a condition of settlement, a motion for good faith finding shall be filed and presented to the Court as to Grba. If, for any reason, the Court declines to enter a good faith finding, this Agreement shall be null and void.

3. As consideration of the payment contained in Paragraph 1, FDIC, and its administrators, assigns, successors, predecessors, representatives, agents, subsidiaries, affiliates, directors, officers, and employees, release and forever discharge Grba and all of its affiliates and related entities and companies, and each of their agents, servants, employees, subsidiaries, parents, affiliates, directors, officers, administrators, predecessors, successors, representatives, fiduciaries, assigns, and its insurer, General Star Management Company, and each and every one of them from any and all claims, actions, demands, damages, expenses, and compensation

whatsoever arising from or related to the Subject Property, the Lawsuit, and any of the claims FDIC, has or could have asserted in the Lawsuit, or any claims arising out of or which relate to the appraisal of the Subject Property prepared by or on behalf of Grba. This Agreement specifically reserves all claims against Success Title Services, Inc.

4. FDIC acknowledges that this Agreement covers claims and causes of action whether they be under theories of tort, contract, statute or otherwise. FDIC further acknowledges that this Agreement covers claims for any form of damages, whether compensatory, punitive, statutory or otherwise, and includes claims and causes of action for all forms of costs, fees, benefits or expenses, which accrued or may accrue in the past, present or future based upon facts that existed as of the date of this Agreement. FDIC further acknowledges that it may discover facts and legal theories in addition to or different from those of which it is now aware. Claims, causes of action and suits arising out of any or all matters released herein that are based upon facts or legal theories unknown as of the date of this Agreement are barred by this Agreement. FDIC further waives the right to rely upon any statute, rule or common-law doctrine which precludes the release of claims, causes of action, or suits arising from facts which are not known or are different from those known when the release is executed.

5. FDIC warrants it is the sole party authorized to pursue the claims asserted in the Lawsuit, and that it has made no assignment of any of those rights, and that there are no liens asserted against any of those rights or the Settlement Payment.

6. Neither this Agreement nor any of its provisions, terms, or conditions constitute an admission of liability or wrongdoing on the part of the Parties and neither this Agreement nor any of its provisions, terms, or conditions shall be construed as an admission of liability or wrongdoing or may be offered or received in evidence in any action or proceeding as evidence of admission of liability or wrongdoing.

7. All of the agreements, covenants, representations and warranties between the Parties, express or implied, oral and written, concerning the subject matter of this Agreement are contained in this Agreement. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants, and warranties concerning the subject matter of this Agreement are merged into this Agreement. The Parties agree that no party shall be bound by or liable to any other in any manner for representations, statements, or warranties that are not expressly set forth herein, and that no promises or inducements have been made except for as set forth herein and that the Parties sign this Agreement in reliance only upon the statements and representations contained herein.

8. This Agreement may not be modified except by agreement of all the Parties in writing duly executed by all the Parties.

9. The Parties represent and warrant that there has been no assignment, negotiation, hypothecation or other transfer or alienation of any cause of action, or of any other rights, obligations, liabilities, demands or claims existing between the Parties or which could be asserted by the Parties in the Lawsuit.

10. Electronic or facsimile transmission of a signed Agreement shall constitute receipt of an original signed Agreement by mail.

11. This Agreement shall be governed by the internal laws of the State of Illinois without regard to conflict of law principles.

12. The Background section above is an integral part of this Agreement and is hereby incorporated and made a part hereof as though fully set forth herein.

13. This Agreement is supported by good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Authorized Representative:

(b)(6)

**Federal Deposit Insurance Corporation, as
Receiver for IndyMac Bank, F.S.B.**

(b)(6)

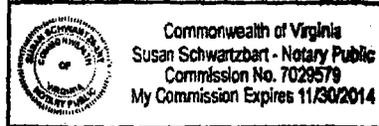
[Redacted Signature]

Date: 8-16-11

SUBSCRIBED and SWORN to
Before me this 16 day of
August, 2011.

[Redacted Signature]

Notary Public



County of Arlington

(b)(6)

William Grba & Associates, Inc.

[Redacted]

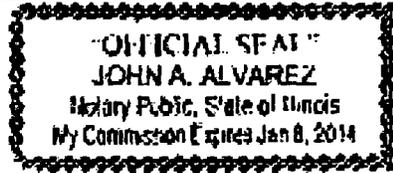
William Grba

Date: 08/25/11

SUBSCRIBED and SWORN to
Before me this 25 day of

[Redacted]

(b)(6)



RELEASE AND SETTLEMENT OF ALL CLAIMS

This is a Release and Settlement of All Claims ("Agreement"), dated as of the last date below, by and among Federal Deposit Insurance Corporation, as a Receiver for IndyMac Bank, F.S.B. ("FDIC"), and Success Title Services, Inc. ("Success Title"), collectively referred to herein as the "Parties."

BACKGROUND

Whereas, IndyMac Bank, F.S.B. ("IndyMac") financed a real property purchase transaction, funding a primary and secondary mortgage loan secured by the property located at 1621 Dodge Avenue, Evanston, Illinois (the "Subject Transaction").

Whereas, Success Title performed title, escrow, and closing services in connection with the Subject Transaction (the "Closing Services").

Whereas, FDIC filed a complaint in the United States District Court for the Northern District of Illinois against Success Title, in an action titled *Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B. v. Success Title Services, Inc.* (Case No. 09-CV-04867) (the "Lawsuit").

Whereas, Success Title filed a third-party complaint in the Lawsuit, seeking contribution against William Grba & Associates, Inc. ("Grba") and others.

Whereas, FDIC has reached a compromise and settlement, separate from this Agreement, as to all claims against Grba.

Whereas, Success Title denies the allegations contained in the Lawsuit.

The Parties have agreed, without concession of liability or fault, to compromise all disputes between and among them relating thereto on the terms set forth below.

AGREEMENT

In consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties by execution of this Agreement, the Parties agree as follows:

1. Success Title shall pay FDIC the sum of One Hundred Thousand Dollars (\$100,000.00) (the "Settlement Payment"). The Settlement Payment shall be made payable to "RJ Landau Partners PLLC, Attorneys for FDIC as Receiver for IndyMac Bank, F.S.B." within fifteen (15) days of receipt by Success Title's counsel of a properly and fully executed Agreement by FDIC. The Settlement Payment represents full settlement and release of all claims by and between the Parties in relation to the Subject Transaction, the Closing Services, and/or the Lawsuit including but not limited to any and all claims for attorney's fees and costs.

2. As a condition of settlement, Success Title shall not object to FDIC's settlement with Grba or otherwise challenge the settlement amount. Success Title shall further, through counsel, execute a dismissal with prejudice and without any costs or attorney's fees to any party regarding Success Title's third-party claims against Grba.

3. As consideration of the Settlement Payment, FDIC, and its administrators, assigns, successors, predecessors, representatives, agents, subsidiaries, affiliates, directors, officers, and employees, release and forever discharge Success Title and all of its affiliates and

related entities and companies, and each of their agents, servants, employees, attorneys, subsidiaries, parents, affiliates, directors, officers, administrators, predecessors, successors, representatives, fiduciaries, assigns, and insurers, including ProAssurance Specialty Insurance Co., Inc. and Mid-Continent General Agency, Inc., and each and every one of them from any and all claims, actions, demands, damages, expenses, and compensation whatsoever arising from or related to the Subject Transaction and/or the Closing Services, the Lawsuit, and any of the claims FDIC has or could have asserted in the Lawsuit.

4. The Parties, through counsel, shall execute a dismissal with prejudice and without any costs or attorney's fees to any party regarding all claims in the Lawsuit between the Parties.

5. FDIC acknowledges that this Agreement covers claims and causes of action whether they be under theories of tort, contract, statute or otherwise. FDIC further acknowledges that this Agreement covers claims for any form of damages, whether compensatory, punitive, statutory or otherwise, and includes claims and causes of action for all forms of costs, fees, benefits or expenses, which accrued or may accrue in the past, present or future based upon facts that existed as of the date of this Agreement. FDIC further acknowledges that it may discover facts and legal theories in addition to or different from those of which it is now aware. Claims, causes of action and suits arising out of any or all matters released herein that are based upon facts or legal theories unknown as of the date of this Agreement are barred by this Agreement. FDIC further waives the right to rely upon any statute, rule or common-law doctrine which precludes the release of claims, causes of action, or suits arising from facts which are not known or are different from those known when the release is executed.

6. FDIC warrants it is the sole party authorized to pursue the claims asserted in the Lawsuit, and that it has made no assignment of any of those rights, and that there are no liens asserted against any of those rights or the Settlement Payment.

7. Neither this Agreement nor any of its provisions, terms, or conditions constitute an admission of liability or wrongdoing on the part of the Parties and neither this Agreement nor any of its provisions, terms, or conditions shall be construed as an admission of liability or wrongdoing or may be offered or received in evidence in any action or proceeding as evidence of admission of liability or wrongdoing.

8. All of the agreements, covenants, representations and warranties between the Parties, express or implied, oral and written, concerning the subject matter of this Agreement are contained in this Agreement. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants, and warranties concerning the subject matter of this Agreement are merged into this Agreement. The Parties agree that no party shall be bound by or liable to any other in any manner for representations, statements, or warranties that are not expressly set forth herein, and that no promises or inducements have been made except for as set forth herein and that the Parties sign this Agreement in reliance only upon the statements and representations contained herein.

9. This Agreement may not be modified except by agreement of all the Parties in writing duly executed by all the Parties.

10. The Parties represent and warrant that there has been no assignment, negotiation, hypothecation or other transfer or alienation of any cause of action, or of any other rights,

obligations, liabilities, demands or claims existing between the Parties or which could be asserted by the Parties in the Lawsuit.

11. Electronic or facsimile transmission of a signed Agreement shall constitute receipt of an original signed Agreement by mail.

12. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement.

13. This Agreement shall be governed by the internal laws of the State of Illinois without regard to conflict of law principles.

14. The Background section above is an integral part of this Agreement and is hereby incorporated and made a part hereof as though fully set forth herein.

15. This Agreement is supported by good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

SIGNATURES APPEAR ON FOLLOWING PAGES

Authorized Representative:

(b)(6)

SUBSCRIBED and SWORN to

Before me this 17th day of

AUGUST, 2011.

Success Title Services, Inc.

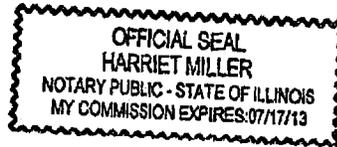
(b)(6)

[Redacted Signature]

[Redacted Signature]

(b)(6)

Date: 8-19-11



IN WITNESS WHEREOF, the Parties hereto have affixed, or caused to be affixed, their respective signatures, in execution of this Agreement.

Authorized Representative:

Federal Deposit Insurance Corporation, as
Receiver for IndyMac Bank, F.S.B.

[Redacted Signature Box]

(b)(6)
(b)(6)

SUBSCRIBED and SWORN to
Before me this 16 day of
August, 2011.

[Redacted Notary Name Box]

Notary Public



County of Arlington

Date: 8-16-11

RELEASE AND SETTLEMENT OF ALL CLAIMS

This is a Release and Settlement of All Claims ("Agreement"), dated as of the last date below, by and among Federal Deposit Insurance Corporation, as a Receiver for IndyMac Bank, F.S.B. ("FDIC"), and William Grba & Associates, Inc. ("Grba"), collectively referred to herein as the "Parties."

BACKGROUND

Whereas, Grba performed an appraisal of the property located at 1621 Dodge Avenue, Evanston, Illinois ("Subject Property").

Whereas, Grba's appraisal of the Subject Property was submitted to IndyMac Bank, F.S.B. in connection with a mortgage loan transaction.

Whereas, FDIC filed a complaint in the District Court for the Northern District of Illinois, against Success Title Services, Inc. ("STS"), in an action titled *Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B. v. Success Title Services, Inc.* (Case No. 09-CV-04867) (the "Lawsuit").

Whereas, STS filed a third-party complaint, seeking contribution, against Grba in the Lawsuit.

Whereas, Grba denies the allegations contained in the third-party complaint.

The Parties have agreed, without concession of liability or fault, to compromise all disputes between and among them relating thereto on the terms set forth below.

AGREEMENT

In consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties by execution of this Agreement, the Parties agree as follows:

1. Grba and/or its insurer, General Star Insurance Company, shall pay FDIC, the sum of Fifty Thousand Dollars (\$50,000.00) (the "Settlement Payment"). The Settlement Payment shall be made payable to "RJ Landau Partners PLLC, Attorneys for Federal Deposit Insurance Corporation" within fifteen (15) days of the execution of this Agreement by FDIC. The Settlement Payment represents full settlement and release of all claims by and between the Parties in relation to the Subject Property, including but not limited to any and all claims for attorneys' fees and costs.

2. Upon full execution of this Agreement, and as a condition of settlement, a motion for good faith finding shall be filed and presented to the Court as to Grba. If, for any reason, the Court declines to enter a good faith finding, this Agreement shall be null and void.

3. As consideration of the payment contained in Paragraph 1, FDIC, and its administrators, assigns, successors, predecessors, representatives, agents, subsidiaries, affiliates, directors, officers, and employees, release and forever discharge Grba and all of its affiliates and related entities and companies, and each of their agents, servants, employees, subsidiaries, parents, affiliates, directors, officers, administrators, predecessors, successors, representatives, fiduciaries, assigns, and its insurer, General Star Management Company, and each and every one of them from any and all claims, actions, demands, damages, expenses, and compensation

whatsoever arising from or related to the Subject Property, the Lawsuit, and any of the claims FDIC, has or could have asserted in the Lawsuit, or any claims arising out of or which relate to the appraisal of the Subject Property prepared by or on behalf of Grba. This Agreement specifically reserves all claims against Success Title Services, Inc.

4. FDIC acknowledges that this Agreement covers claims and causes of action whether they be under theories of tort, contract, statute or otherwise. FDIC further acknowledges that this Agreement covers claims for any form of damages, whether compensatory, punitive, statutory or otherwise, and includes claims and causes of action for all forms of costs, fees, benefits or expenses, which accrued or may accrue in the past, present or future based upon facts that existed as of the date of this Agreement. FDIC further acknowledges that it may discover facts and legal theories in addition to or different from those of which it is now aware. Claims, causes of action and suits arising out of any or all matters released herein that are based upon facts or legal theories unknown as of the date of this Agreement are barred by this Agreement. FDIC further waives the right to rely upon any statute, rule or common-law doctrine which precludes the release of claims, causes of action, or suits arising from facts which are not known or are different from those known when the release is executed.

5. FDIC warrants it is the sole party authorized to pursue the claims asserted in the Lawsuit, and that it has made no assignment of any of those rights, and that there are no liens asserted against any of those rights or the Settlement Payment.

6. Neither this Agreement nor any of its provisions, terms, or conditions constitute an admission of liability or wrongdoing on the part of the Parties and neither this Agreement nor any of its provisions, terms, or conditions shall be construed as an admission of liability or wrongdoing or may be offered or received in evidence in any action or proceeding as evidence of admission of liability or wrongdoing.

7. All of the agreements, covenants, representations and warranties between the Parties, express or implied, oral and written, concerning the subject matter of this Agreement are contained in this Agreement. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants, and warranties concerning the subject matter of this Agreement are merged into this Agreement. The Parties agree that no party shall be bound by or liable to any other in any manner for representations, statements, or warranties that are not expressly set forth herein, and that no promises or inducements have been made except for as set forth herein and that the Parties sign this Agreement in reliance only upon the statements and representations contained herein.

8. This Agreement may not be modified except by agreement of all the Parties in writing duly executed by all the Parties.

9. The Parties represent and warrant that there has been no assignment, negotiation, hypothecation or other transfer or alienation of any cause of action, or of any other rights, obligations, liabilities, demands or claims existing between the Parties or which could be asserted by the Parties in the Lawsuit.

10. Electronic or facsimile transmission of a signed Agreement shall constitute receipt of an original signed Agreement by mail.

11. This Agreement shall be governed by the internal laws of the State of Illinois without regard to conflict of law principles.

12. The Background section above is an integral part of this Agreement and is hereby incorporated and made a part hereof as though fully set forth herein.

13. This Agreement is supported by good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Authorized Representative:

SUBSCRIBED and SWORN to
Before me this 16 day of
August, 2011.

(b)(6)

**Federal Deposit Insurance Corporation, as
Receiver for IndyMac Bank, F.S.B.**

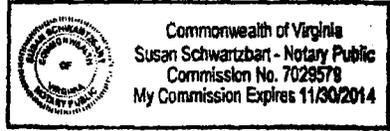
[Redacted Signature]

(b)(6)

[Redacted Signature]

Notary Public

Date: 8-16-11



County of Arlington

(b)(6)

William Orba & Associates, Inc.

[Redacted Signature]

William Orba

Date: 08/25/11

SUBSCRIBED and SWORN to
Before me this 25 day of

[Redacted Signature]

(b)(6)



SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 16 day of October 2011 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B. ("FDIC") and MILESTONE MORTGAGE AND REALTY GROUP, INC. ("MILESTONE"); LA HACIENDA REALTY, INC. dba CENTURY 21 LA HACIENDA ("LA HACIENDA") and ELBA EYZAGUIRRE SCHNAIDER (SCHNAIDER) (collectively "DEFENDANTS"). The FDIC and DEFENDANTS may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 On or about September 22, 2010, the FDIC filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC BANK, F.S.B. v. MILESTONE MORTGAGE AND REALTY GROUP, INC., a California corporation; LA HACIENDA REALTY, INC. dba CENTURY 21 LA HACIENDA, a California corporation; ELBA EYZAGUIRRE SCHNAIDER, an individual, United States District Court Case No. CV10-7080-PSG (hereinafter "Action"). The FDIC sought damages from DEFENDANTS arising out of a mortgage loan it made Raul Munar. The Complaint included a claims for breach of contract, negligence, negligent hiring and supervision and negligent misrepresentation. In their answer, DEFENDANTS denied they were liable to the FDIC for damages.

1.2 On or about April 7, 2006, IndyMac Bank, F.S.B. ("IndyMac") and MILESTONE entered into a business relationship governed by a written Customer Contract and e-MITS User Agreement (the "Agreement"). SCHNAIDER was the broker of record for MILESTONE and executed the Agreement on its behalf. The FDIC contends the Agreement incorporates the Lending Guide and sets forth the terms by which IndyMac would purchase and/or fund residential loans secured by real property which were processed, packaged and submitted by MILESTONE.

1.3 The FDIC contends in December 2007, DEFENDANTS solicited Mr. Munar to enter into a foreclosure rescue scam in which Mr. Munar would act as a straw borrower to delay foreclosure on the subject property. LA HACIENDA listed the property for the seller, Alvaro A. Pirir Barillas. SCHNAIDER was the broker of record for LA HACIENDA. On or about December 13, 2007, IndyMac funded a loan in the amount of \$540,000 for the purchase of real property located at 20301 Leadwell Street, Winnetka, California by Raul Munar ("MUNAR LOAN"). In furtherance of DEFENDANTS' agreement with Mr. Munar, LA HACIENDA and SCHNAIDER prepared and MILESTONE submitted a purchase contract to IndyMac as part of the loan documentation which negligently misrepresented the true nature of the transaction. The FDIC alleges the documents prepared by DEFENDANTS and submitted in support of the mortgage loan transaction contained misrepresentations regarding the transaction and failed to comply with the terms and conditions of the Agreement and the Guide.

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1.4 DEFENDANTS deny the FDIC's claims. Specifically, and without limitation, DEFENDANTS deny that (1) they breached the representations and warranties provisions of the Agreement and the Lending Guide; (2) they breached any duty owed to IndyMac or the FDIC; (3) the loan documentation prepared and submitted by DEFENDANTS contained any misrepresentations; or (4) the FDIC and/or IndyMac suffered or will suffer any loss, damage, or cost related in any way to the MUNAR LOAN.

1.5 The Parties desire and have agreed to settle all claims between the FDIC and DEFENDANTS relating the MUNAR LOAN. By entering into this Settlement Agreement, the parties are not admitting the allegations as set forth in the Complaint.

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 the FDIC.** Payment of Thirty-Four Thousand Dollars and no/cents (\$34,000.00) (the "Settlement Funds") shall be paid on behalf of DEFENDANTS to the FDIC as follows:

(a) Of the Settlement Funds, the initial payment (the "Initial Payment") shall be for **Ten Thousand Dollars and no cents (\$10,000.00) and shall be paid within ten (10) days of DEFENDANTS' execution of this Settlement Agreement.** DEFENDANTS shall deliver the Initial Payment to the FDIC c/o Anderson, McPharlin & Conners, LLP at 444 S. Flower Street, 31st Floor, Los Angeles, California, 90071, Attn: Vanessa H. Widener and Jennifer S. Muse. The Initial Payment shall be paid by certified funds made payable to: **Anderson, McPharlin & Conners Trust Account.**

(b) **Within six (6) months of the execution of this Settlement Agreement by DEFENDANTS, DEFENDANTS shall make a payment of Twenty-Four Thousand Dollars and no/cents (\$24,000.00) ("Final Payment").** The Final Payments shall be made by sending certified funds made payable to **Anderson, McPharlin & Conner's Trust Account** to the FDIC c/o Anderson, McPharlin & Conners, LLP at 444 S. Flower Street, 31st Floor, Los Angeles, California, 90071, Attn: Vanessa H. Widener and Jennifer S. Muse.

2.3 Concurrently with the signing and delivery of this Settlement Agreement, DEFENDANTS shall execute a Stipulation for Entry of Judgment in the amount of Three Hundred Twenty-Eight Thousand Eight Hundred and Twenty-Two Dollars and Twenty-Two cents (\$328, 22.22), against DEFENDANTS in the form attached hereto as Exhibit

1. The Stipulation for Entry of Judgment incorporates by reference the Judgment (Pursuant to Stipulation), attached to the Stipulation as Exhibit A. Both the Stipulation and Judgment are incorporated by reference herein and their terms are made a part of this Settlement Agreement. The Stipulation and Judgment shall be held in trust by the FDIC's attorneys of record and shall not be filed unless DEFENDANTS breach paragraphs 2.2 above and fail to timely cure said breach after receiving written notice of default as provided in paragraph 2.4 below. The Judgment (Pursuant to Stipulation) shall not be entered so long as DEFENDANTS perform under the terms of this Settlement Agreement with respect to making the Payments required by paragraph 2.2 above.

2.4 In the event DEFENDANTS default by failing to make a timely payment to the FDIC as set forth in paragraphs 2.2 above, the FDIC shall give written notice of the default and notice of its intent to enter Judgment (Pursuant to Stipulation) to DEFENDANTS via e-mail and overnight mail to their attorney of record as follows: David Glaubiger, esq., 2100 Devonshire St., Ste 112, Chatsworth, CA 91311; telephone (b)(4),(b)(6) [redacted] facsimile (b)(4),(b)(6) [redacted] e-mail (b)(4),(b)(6) [redacted]. In the event there are any changes to Mr. Glaubiger's e-mail address, mailing address or telephone number, DEFENDANTS agree to provide written notice of the change to the FDIC c/o Anderson, McPharlin & Connors, LLP, 444 S. Flower Street, 31st Floor, Los Angeles, California, 90071; Attn: Vanessa H. Widener and Jennifer S. Muse. DEFENDANTS shall have ten (10) business days after written notice of default is sent to Mr. Glaubiger to cure the default. If DEFENDANTS fail to cure the default within ten (10) business days, the FDIC shall cause Judgment (Pursuant to Stipulation) to be entered as set forth in Paragraph 2.3 above.

2.5 Within ten (10) business days of the FDIC's receipt of the Initial Payment as set forth in paragraph 2.2(a), the FDIC's counsel shall file a request for dismissal of the entire Action with prejudice.

2.6 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement and, if necessary, the Judgment (Pursuant to Stipulation).

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

3. **RELEASE**

3.1 **Known and Unknown Claims.** The FDIC and DEFENDANTS 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) arising from or in conjunction with or related to the facts and circumstances giving rise to the Action.

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3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3.3 The Parties understand and acknowledge that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with the Action or any facts or circumstances related to the Action, that Party will not be able to make any claim against any other Party for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release relating to the Action, but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

3.4 Except for the rights, duties, and obligations set forth in this Settlement Agreement, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, to any damages, loss, or liability arising from, in conjunction with, or related to the Action or any facts or circumstances related to the Action.

3.5 Notwithstanding any other provision of this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against DEFENDANTS arising out of existing or failed financial institutions other than INDYMAC.

(b)(6)

4. MISCELLANEOUS

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

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

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

4.4 Governing Law. The Parties agree to submit to the 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.

4.5 Attorneys Fees and Costs. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

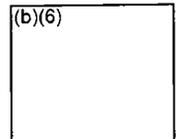
4.6 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

4.7 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.

4.8 Approval and Authority. 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.

4.9 Review and Understanding. The Parties enter into this Settlement Agreement voluntarily after having consulted with legal counsel concerning this Settlement Agreement and having conducted such inquiry as they deem necessary and advisable prior to entering into this Settlement Agreement.

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



4.11 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.

4.12 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.

4.13 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.

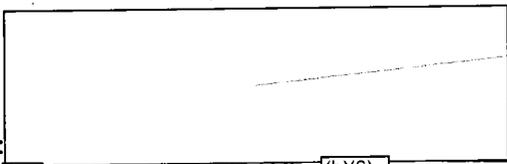
4.14 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement.

4.15 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 Settlement 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 26, 2011
APPROVED AS TO FORM

LAW OFFICES OF DAVID J. GLAUBIGER

By: 

(b)(6)

(b)(6) David J. Glaubiger (b)(6)
Attorneys for Defendants MILESTONE MORTGAGE
AND REALTY GROUP, INC.; LA HACIENDA
REALTY, INC. dba CENTURY 21 LA HACIENDA;
ELBA EYZAGUIRRE SCHNAIDER

(b)(6)



DATED: October __, 2011

MILESTONE MORTGAGE AND REALTY GROUP, INC.

By: (b)(6)
Signature

ELBA SCHNAIDER, PRESIDENT
Type/Print Name and Title

DATED: October __, 2011

LA HACIENDA REALTY, INC. dba CENTURY 21
LA HACIENDA

By: (b)(6)
Signature

ELBA SCHNAIDER, PRESIDENT
Type/Print Name and Title

(b)(6)

DATED: October __, 2011

ELBA EYZAGUIRRE SCHNAIDER

DATED: October __, 2011
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By: VANESSA H. WIDENER
JENNIFER S. MUSE
Attorneys for Plaintiff FEDERAL DEPOSIT
INSURANCE CORPORATION, as Receiver for
INDYMAC BANK, F.S.B.

(b)(6)

DATED: October ____, 2011

MILESTONE MORTGAGE AND REALTY GROUP,
INC.

By: _____
Signature

Type/Print Name and Title

DATED: October ____, 2011

LA HACIENDA REALTY, INC. dba CENTURY 21
LA HACIENDA

By: _____
Signature

Type/Print Name and Title

DATED: October ____, 2011

ELBA EYZAGUIRRE SCHNAIDER

DATED: October 21, 2011
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By:

YANESSA H. WIDENER
JENNIFER S. MUSE

Attorneys for Plaintiff FEDERAL DEPOSIT
INSURANCE CORPORATION, as Receiver for
INDYMAC BANK, F.S.B.

(b)(6)

DATED: October 21, 2011

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

By:

[Redacted Signature Box]

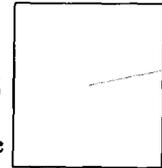
(b)(6)

Joek Duncan, Counsel, FDIC
Type/Print Name and Title

SETTLEMENT AGREEMENT AND OPTION FOR RELEASE

(b)(6)

THIS SETTLEMENT AGREEMENT AND OPTION FOR RELEASE ("Settlement Agreement") is entered into and made effective as of the ~~22nd~~ ^{3rd} day of ~~September~~ ^{October}, 2011 ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC-R") and Luxury Mortgage Corporation ("LUXURY "). The FDIC-R and LUXURY may hereinafter be referred to individually as a "Party" or collectively as the "Parties".



RECITALS

1.1 WHEREAS, on or about July 19, 2010, the FDIC-R filed a lawsuit against LUXURY entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. v. LUXURY MORTGAGE CORPORATION*, in the United States District Court, Central District of California, Case No. CV10-5270. (hereinafter "the Curtiss Action").

1.2 WHEREAS, on or about September 8, 2011, the FDIC-R filed a lawsuit against LUXURY entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. v. LUXURY MORTGAGE CORPORATION*, in the United States District Court, Central District of California, Case No. CV11-07402 (hereinafter, the "Hampton Action").

1.3 WHEREAS, Luxury has denied the FDIC-R's allegations in both the Curtiss Action and the Hampton Action (collectively, "the Actions").

1.4 WHEREAS, without admitting liability, the Parties desire to and have agreed to enter into this Settlement Agreement relating to the Actions upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

1.6 **Payment of the Settlement Funds.** LUXURY shall pay the total sum of One Hundred Fifteen Thousand Dollars (\$115,000) (the "Settlement Funds").

Payment of the Settlement Funds shall be according to the payment schedule set forth in paragraph 1.8 below. The Settlement Funds shall constitute the first \$115,000 of payments due under the payment schedule.

1.7 LUXURY's Release Option. LUXURY has the opportunity, but not the obligation, to obtain from the FDIC-R a release of any claims arising out of any loans which it ever originated and were sold to IndyMac Bank, F.S.B. by LUXURY (the "LOANS") (the "Release Option").

a. If LUXURY elects to invoke the Release Option, then LUXURY must notify the FDIC-R, in writing, no later than July 31, 2013, of its exercise of the Release Option. Timely notice shall be given via mail, facsimile or electronic mail to: Michael H. Delbick, Esq., Mortgage Recovery Law Group, LLP, 700 North Brand Boulevard, Suite 830, Glendale, CA 91203; facsimile: [REDACTED] electronic mail: [REDACTED]

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b. If LUXURY elects to invoke the Release Option, then LUXURY shall pay to the FDIC-R an additional Eighty Thousand Dollars (\$80,000) (the "Release Settlement Payment"). The Release Settlement Payment shall be in addition to the amount of the Settlement Funds and shall bring the total amount payable by LUXURY to the FDIC-R under this Settlement Agreement to One Hundred Ninety-Five Thousand Dollars (\$195,000). Payment of the Release Settlement Payment shall be according to the payment schedule set forth in paragraph 1.8, below.

c. If LUXURY gives (1) timely notice of LUXURY's intent to exercise the Release Option as set forth herein, and (2) pays the Settlement Funds, then and only then shall the release of claims provisions set forth below become effective.

d. If LUXURY elects not to invoke the Release Option, then LUXURY does not need to provide any further notice to the FDIC-R. If LUXURY has not effectively exercised the Release Option on or before July 31, 2013, then effective August 1, 2013, the Release Option is automatically deemed rejected.

e. If LUXURY does not timely invoke the Release Option, then the FDIC-R is free to pursue any claims against LUXURY, including (but not limited to) the claims set forth in the Hampton Action, the Curtiss Action, this Settlement Agreement and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against LUXURY, the payments made by LUXURY under this Settlement Agreement will be offset against any future obligation or judgment.

1.8 Payment Schedule. Payment to the FDIC-R by LUXURY of the Settlement Funds and, if applicable, the Release Option, shall be made according to the following schedule:

For payment of the Settlement Funds:

Within ten (10) business days of execution of this Agreement by both parties, LUXURY shall make a payment of Twenty-Five Thousand Dollars (\$25,000).

On or before January 15, 2012, LUXURY shall make an additional payment of Twenty-Five Thousand Dollars (\$25,000).

On or before July 15, 2012, LUXURY shall make an additional payment of Fifteen Thousand Dollars (\$15,000).

On or before January 15, 2013, LUXURY shall make an additional payment of Fifteen Thousand Dollars (\$15,000).

On or before July 15, 2013, LUXURY shall make an additional payment of Twenty-Five Thousand Dollars (\$25,000).

On or before January 15, 2014, LUXURY shall make an additional payment of Twenty-Five Thousand Dollars (\$10,000).

If LUXURY exercises the Release Option, then for payment of the Release Settlement Payment:

On or before January 15, 2014, LUXURY shall make an additional payment of Fifteen Thousand Dollars (\$15,000).

On or before July 15, 2014, LUXURY shall make a payment of Twenty-Five Thousand Dollars (\$25,000).

On or before January 15, 2015, LUXURY shall make a payment of Twenty-Five Thousand Dollars (\$25,000).

On or before July 15, 2015, LUXURY shall make a payment of Fifteen Thousand Dollars (\$15,000).

1.9 Payments shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number [redacted] Routing [redacted] Number: [redacted] Reference: Luxury Settlement.

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1.10 Payments of the Settlement Funds and, if applicable, the Release Settlement Payment are interest free if timely paid. If LUXURY defaults on any of its payment obligations under this Settlement Agreement and thereafter fails to cure the

default as provided in Section 1.15 below, an additional 10% interest will begin to accrue and be due on any unpaid sums.

1.11 Financial Documents. Within three days of receipt of this Settlement Agreement executed by the FDIC-R, LUXURY shall provide to the FDIC-R a current balance sheet and income statement (Financial Documents) for January 1, 2011 through June 30, 2011. LUXURY represents and warrants that all of the information set forth in LUXURY's Financial Documents provided, including the information in the Financial Documents provided for years 2008, 2009, 2010 and 2011 are true and correct. If LUXURY fails to provide the Financial Documents or breaches this representation and warranty, then the FDIC-R is free to pursue any claims against LUXURY, including (but not limited to) the claims set forth in the Hampton Action, the Curtiss Action, this Settlement Agreement and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against LUXURY, the payments made by LUXURY under this Settlement Agreement will be offset against any future obligation or judgment.

1.12 Ownership of Claims. The FDIC-R represents and warrants that it has not assigned any rights it may have or may have had with respect to repurchase and indemnification rights associated with the LOANS, to any other person or entity, including, without limitation, IndyMac Federal Bank, OneWest Bank, or any of their affiliates. This representation and warranty is a material inducement for Luxury entering into this Settlement Agreement and shall survive the execution and delivery of the Settlement Agreement. Should a claim be made by IndyMac Federal Bank, FSB, OneWest Bank or any of their affiliates against Luxury with respect to repurchase and indemnification rights associated with the LOANS, Luxury shall notify the FDIC-R of such claim, in writing, in the manner set forth in Paragraph 1.7 above. Upon proper notification of such claim by Luxury to the FDIC-R, Luxury shall be relieved of any further payment obligation under this Settlement Agreement until such claim is withdrawn against Luxury. Once such claim has been withdrawn against Luxury, Luxury shall resume all payment obligations under this Settlement Agreement when due, including payment of any amount then due under the Payment Schedule set forth in Paragraph 1.8 above no later than sixty (60) days after Luxury's receipt of written notice to the persons and in the manner identified in Paragraph 1.14 that such claim has been withdrawn.

1.13 Dismissal of Actions. The FDIC-R shall cause its attorneys, with cooperation as necessary from LUXURY's attorneys, to execute and file requests for dismissal of the Hampton Action and the Curtiss Action, without prejudice. Dismissal of the Curtiss Action and the Hampton Action without prejudice is a material term of the settlement. However, if the judge presiding over either the Hampton Action or the Curtiss Action only allows a dismissal with prejudice, the FDIC-R shall dismiss the

applicable action with prejudice and this Agreement shall remain in full force and effect.

1.14 Notice of Default. In the event LUXURY defaults by failing to make a timely payment to the FDIC-R as set forth in this Settlement Agreement, the FDIC-R shall give written notice of the default to LUXURY via mail, facsimile or electronic mail to: John Tate, Esq., Davis Wright Tremaine, LLP, 865 S. Figueroa St., Suite 2400, Los Angeles, CA 90017, T: [redacted] F: [redacted] email: [redacted] and Cassandra Burns McDonald, Luxury Mortgage Corp., One Landmark Square, Suite 100, Stamford, Connecticut 06901, T: [redacted] F: [redacted] (203) 569-4276, email: [redacted]

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1.15 Time to Cure. LUXURY shall have ten (10) business days from receipt of the notice of default to cure the default. If LUXURY fails to cure a default on the payment of the Settlement Funds within ten (10) business days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Settlement Funds that have not been paid, and/or is free to pursue any claims against LUXURY, including (but not limited to) the claims set forth in the Hampton Action, the Curtiss Action, this Settlement Agreement and any other claims arising out of the LOANS. If LUXURY fails to cure a default on the payment of the Release Settlement Payment within ten (10) days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Release Settlement Payment that have not been paid. Should the FDIC-R pursue any claims against LUXURY, the payments made by LUXURY under this Settlement Agreement will be offset against any future obligation or judgment.

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1.16 Stay and Tolling Agreement. The parties agree that all claims arising from the LOANS between the FDIC-R and LUXURY (including but not limited to the Curtiss and Hampton Loans and all rights and defenses) are stayed until August 1, 2013. The parties further agree that the applicable statute of limitations for any such claims shall be tolled from the Effective Date of this Settlement Agreement through July 31, 2013.

1.17 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement.

1.18 The Parties shall bear their own costs and attorneys' fees incurred in the Actions.

1.19 Conditional Release.

a. The FDIC-R's release of any claims arising out of the LOANS is conditioned upon LUXURY's (1) timely exercise of the Release Option and (2) the FDIC-R's receipt of the Settlement Funds. If the conditions herein for a release are met, FDIC-R agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

b. If the conditions herein for a Release Option are met, then LUXURY agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

1.20 Unknown Claims. Except for the obligations arising under this Settlement Agreement, each Party acknowledges that this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which each Party may have against the other Party arising from the obligation to repurchase and/or indemnify for losses associated with the LOANS. Each Party hereby expressly waives application of California Civil Code §1542 and any other similar statute or rule with respect to the LOANS.

1.21 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, 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."

1.22 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, the Parties mutually fully, finally, and forever release and discharge each other, and any and all of their respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, shareholders, independent contractors, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees, or any corporation,

partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, and/or employees of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the obligation to repurchase and/or indemnify for losses associated with the LOANS, the claims and causes of action that were or could have been asserted relating to the obligation to repurchase and/or indemnify for losses associated with the LOANS, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the LOANS.

1.23 IndyMac Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against LUXURY arising out of existing or failed financial institutions other than IndyMac Bank.

1.24 FDIC-R Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC-R specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

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

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

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

1.28 Governing Law. The Parties agree to submit to the Courts of the United States of American, Central District of California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said

Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

1.29 Attorneys' Fees. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

1.30 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

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

1.32 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 Party 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.

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

1.34 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.

1.35 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.

1.36 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.

1.37 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.

1.38 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties with respect to the repurchase and/or indemnification obligations in connection with the LOANS, and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement 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.

For: Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, F.S.B. **For: Luxury Mortgage Corporation**

(b)(6) By: By: _____
Name: Richard S. Gail Name: _____
Title: Counsel Title: _____
Date: 9-27-11 Date: _____

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.

1.36 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.

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1.38 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties with respect to the repurchase and/or indemnification obligations in connection with the LOANS, and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement 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.

For: Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, F.S.B.

For: Luxury Mortgage Corporation

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By: _____

By:

Name: _____

Name: David Adamo

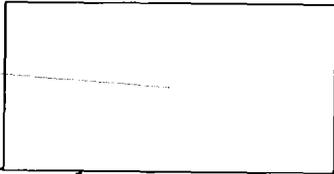
Title: _____

Title: CEO

Date: _____

Date: 9/27/11

(b)(6)



By:

By:

Name: Maurice Wainer

Name: John R. Tate

Title: Counsel for Plaintiff, Federal
Deposit Insurance Corporation as
Receiver for IndyMac Bank, F.S.B.

Title: Counsel for Defendant Luxury
Mortgage Corporation

Date: Sept. 26 2011

Date: _____

(b)(6)

By: _____



Name: Maurice Wainer

Name: John R. Tafe

Title: Counsel for Plaintiff, Federal
Deposit Insurance Corporation as
Receiver for IndyMac Bank, F.S.B.

Title: Counsel for Defendant Luxury
Mortgage Corporation

Date: _____

Date: Sept 28, 2011

SETTLEMENT AGREEMENT AND OPTION FOR RELEASE

THIS SETTLEMENT AGREEMENT AND OPTION FOR RELEASE ("Settlement Agreement") is entered into and made effective as of the 30th day of November, 2011 ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC-R") and Security Mortgage Funding Corporation ("SECURITY"). The FDIC-R and SECURITY may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

RECITALS

1.1 WHEREAS, on or about December 28, 2010, the FDIC-R filed a lawsuit against SECURITY entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. v. SECURITY MORTGAGE FUNDING CORPORATION*, in the United States District Court, Central District of California, Western Division, Case No. SA CV 10-01969. (hereinafter the "Action").

1.2 WHEREAS, SECURITY has denied the FDIC-R's allegations in the Action.

1.3 WHEREAS, without admitting liability, the Parties desire to and have agreed to enter into this Settlement Agreement relating to the Action upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

1.5 Payment of the Settlement Funds. SECURITY shall pay the total sum of Ninety Thousand Dollars (\$90,000) (the "Settlement Funds"). Payment of the Settlement Funds shall be according to the payment schedule set forth in paragraph 1.8 below. The Settlement Funds shall constitute the first \$90,000 of payments due under the payment schedule.

1.6 SECURITY's Release Option. SECURITY has the opportunity, but not the obligation, to obtain from the FDIC-R a release of any claims arising out of any

loans which it ever originated and were sold to IndyMac Bank, F.S.B. by SECURITY (the "LOANS") (the "Release Option").

a. If SECURITY elects to invoke the Release Option, then SECURITY must notify the FDIC-R, in writing, no later than November 30, 2013, of its exercise of the Release Option. Timely notice shall be given via mail, facsimile or electronic mail to: Michael H. Delbick, Esq., Mortgage Recovery Law Group, LLP, 700 North Brand Boulevard, Suite 830, Glendale, CA 91203; facsimile: [REDACTED] electronic mail [REDACTED]

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b. If SECURITY elects to invoke the Release Option, then SECURITY shall pay to the FDIC-R an additional One Hundred Ten Thousand Dollars (\$110,000) (the "Release Settlement Payment"). The Release Settlement Payment shall be in addition to the amount of the Settlement Funds and shall bring the total amount payable by SECURITY to the FDIC-R under this Settlement Agreement to Two Hundred Thousand Dollars (\$200,000). Payment of the Release Settlement Payment shall be according to the payment schedule set forth in paragraph 1.8, below.

c. If SECURITY gives (1) timely notice of SECURITY's intent to exercise the Release Option as set forth herein, and (2) pays the Settlement Funds, then and only then shall the release of claims provisions set forth below become effective.

d. If SECURITY elects not to invoke the Release Option, then SECURITY does not need to provide any further notice to the FDIC-R. If SECURITY has not effectively exercised the Release Option on or before November 30, 2013, then effective December 1, 2013, the Release Option is automatically deemed rejected.

e. If SECURITY does not timely invoke the Release Option, then the FDIC-R is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.7 Payment Schedule. Payment to the FDIC-R by SECURITY of the Settlement Funds and, if applicable, the Release Option, shall be made according to the following schedule:

For payment of the Settlement Funds:

On or before January 30, 2012, SECURITY shall make a payment of Fifteen Thousand Dollars (\$15,000).

On or before April 1, 2012, SECURITY shall make an additional payment of Eleven Thousand Dollars (\$11,000).

Beginning on or before May 1, 2012, SECURITY shall make an additional payment of Three Thousand Dollars (\$3,000) each month for twelve (12) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2012, and the last such payment due on or before April 1, 2013;

Beginning on or before May 1, 2013, SECURITY shall make an additional payment of Four Thousand Dollars (\$4,000) each month for twelve (12) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2013, and the last such payment due on or before April 1, 2014;

If SECURITY exercises the Release Option, then for payment of the Release Settlement Payment:

Beginning on or before May 1, 2014, SECURITY shall make an additional payment of Five Thousand Dollars (\$5,000) each month for eighteen (18) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2014, and the last such payment due on or before October 1, 2015;

1.8 Payments shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number: [REDACTED] Routing Number: [REDACTED] Reference: Security Mortgage Settlement. Should the due date for any payment set forth above fall on a weekend or holiday, the payment shall be due no later than the next business day.

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1.9 Payments of the Settlement Funds and, if applicable, the Release Settlement Payment are interest free if timely paid. If SECURITY defaults on any of its payment obligations under this Settlement Agreement and thereafter fails to cure the default as provided in Section 1.15 below, thereafter an additional 10% interest will begin to accrue and be added to and due on any unpaid sums.

1.10 **Financial Documents.** SECURITY has provided to the FDIC-R a current balance sheet and income statement (Financial Documents) for November 2010 through July 31, 2011. SECURITY represents and warrants that all of the information set forth in SECURITY's Financial Documents provided, including the information in the Financial Documents and Tax Returns provided for previous years are true and correct. If the information in the Financial Documents or Tax Returns is not true and correct and/or if SECURITY otherwise breaches this representation and warranty, then

the FDIC-R is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement, and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.11 Ownership of Claims. The FDIC-R represents and warrants that none of the loans identified in the Action have been sold or otherwise transferred to a collateralized loan pool or other third party with the exception of IndyMac Federal Bank, OneWest, or one of their affiliates. The FDIC-R further represents and warrants that it has not assigned any rights it may have or may have had with respect to repurchase and indemnification rights associated with the LOANS, to any other person or entity, including, without limitation, IndyMac Federal Bank, OneWest Bank, or any of their affiliates. This representation and warranty is a material inducement for SECURITY entering into this Settlement Agreement and shall survive the execution and delivery of the Settlement Agreement. Should a claim (1) be asserted against Security based on a claim of ownership of one of the loans identified in the Action or (2) be made by IndyMac Federal Bank, FSB, OneWest Bank or any of their affiliates against SECURITY with respect to repurchase and indemnification rights associated with the LOANS, SECURITY shall notify the FDIC-R of such claim, in writing, in the manner set forth in Paragraph 1.7 above. Upon proper notification of such claim by SECURITY to the FDIC-R, SECURITY shall be relieved of any further payment obligation under this Settlement Agreement until such claim is withdrawn against SECURITY. Once such claim has been withdrawn against SECURITY, SECURITY shall resume all payment obligations under this Settlement Agreement when due, including payment of any amount then due under the Payment Schedule set forth in Paragraph 1.8 above no later than sixty (60) days after SECURITY's receipt of written notice to the persons and in the manner identified in Paragraph 1.14 that such claim has been withdrawn.

1.12 Dismissal of Actions. The FDIC-R shall cause its attorneys, with cooperation as necessary from SECURITY's attorneys, to execute and file requests for dismissal of the Action, without prejudice. Dismissal of the Action without prejudice is a material term of the settlement.

1.13 Notice of Default. In the event SECURITY defaults by failing to make a timely payment to the FDIC-R as set forth in this Settlement Agreement, the FDIC-R shall give written notice of the default to SECURITY via mail, facsimile or electronic mail to: John Tate, Esq., Davis Wright Tremaine, LLP, 865 S. Figueroa St., Suite 2400, Los Angeles, CA 90017, T: [redacted] F: [redacted] email: [redacted]

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1.14 Time to Cure. SECURITY shall have ten (10) business days from receipt of the notice of default to cure the default. If SECURITY fails to cure a default on the payment of the Settlement Funds within ten (10) business days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Settlement Funds that have not been paid, and/or is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement, and any other claims arising out of the LOANS. If SECURITY fails to cure a default on the payment of the Release Settlement Payment within ten (10) days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Release Settlement Payment that have not been paid. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.15 Stay and Tolling Agreement. The parties agree that all claims arising from the LOANS between the FDIC-R and SECURITY (including but not limited to the loans identified in the Action, and all rights and defenses) are stayed until December 1, 2013. However, in the event SECURITY breaches this Settlement Agreement in any manner prior to April 1, 2004, FDIC-R has the option to terminate the stay following such breach and immediately pursue any and all claims arising from the LOANS or under this Settlement Agreement. The parties further agree that the applicable statute of limitations for any such claims shall be tolled from the Effective Date of this Settlement Agreement through December 15, 2013.

1.16 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement.

1.17 The Parties shall bear their own costs and attorneys' fees incurred in the Actions.

1.18 Conditional Release.

a. The FDIC-R's release of any claims arising out of the LOANS is conditioned upon SECURITY's (1) timely exercise of the Release Option and (2) the FDIC-R's receipt of the Settlement Funds. If the conditions herein for a release are met, FDIC-R agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

b. If the conditions herein for a Release Option are met, then SECURITY agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

1.19 Unknown Claims. Except for the obligations arising under this Settlement Agreement, each Party acknowledges that this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which each Party may have against the other Party arising from the obligation to repurchase and/or indemnify for losses associated with the LOANS. Each Party hereby expressly waives application of California Civil Code §1542 and any other similar statute or rule with respect to the LOANS.

1.20 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, 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."

1.21 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, the Parties mutually fully, finally, and forever release and discharge each other, and any and all of their respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, shareholders, independent contractors, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, and/or employees of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the obligation to repurchase and/or indemnify for losses associated with the LOANS, the claims and causes of action that were or could have been asserted

relating to the obligation to repurchase and/or indemnify for losses associated with the LOANS, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the LOANS.

1.22 IndyMac Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against SECURITY arising out of existing or failed financial institutions other than IndyMac Bank.

1.23 FDIC-R Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC-R specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

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

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

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

1.27 Governing Law. The Parties agree to submit to the Courts of the United States of American, Central District of California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

1.28 Attorneys' Fees. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

1.29 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

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

1.31 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 Party 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.

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

1.33 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.

1.34 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.

1.35 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.

1.36 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.

1.37 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties with respect to the repurchase and/or indemnification obligations in connection with the LOANS, and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement 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.

For: Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, F.S.B.

For: Security Mortgage Funding Corporation (b)(6)

By:

By:

Name: Richard S. Gill

Name: LIEN NGUYEN

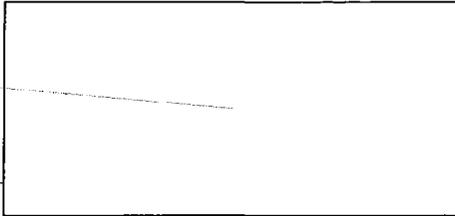
Title: Counsel

Title: PRESIDENT

Date: 1-9-12

Date: JAN 10, 2012

(b)(6)



By: _____

Name: Maurice Wainer

Title: Counsel for Plaintiff, Federal
Deposit Insurance Corporation as
Receiver for IndyMac Bank, F.S.B.

Date: _____

Name: ~~John R. Tate~~

Title: Counsel for Defendant Security
Mortgage Funding Corporation

Date: JAN 10, 2012

SETTLEMENT AGREEMENT

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

1. RECITALS

1.1 In September of 2004, KASHIFI purchased the two adjoining parcels (4 Sol Brae Way and 2 Sol Brae Way, Orinda, California) for \$1,250,000. On May 24, 2007, KASHIFI entered into a Purchase & Sale Agreement with Hassen Al Reyes for 4 Sol Brae Property. Al Reyes agreed to buy the 4 Sol Brae Property for \$1.9 million. Al Reyes applied for and obtained two loans from Washington Mutual Bank, FA totaling \$1,709,810. HAMMERSLY/PRESIDIO prepared an appraisal of the 4 Sol Brae Property to be used by the lender in connection with the mortgage finance transaction.

1.2 On May 24, 2007, KASHIFI entered into a Purchase & Sale Agreement to sell the 2 Sol Brae Property to Mohamad Al-Akkad. Al-Akkad agreed to purchase this unimproved lot for \$870,000. Royal Kirkland prepared an appraisal of the 2 Sol Brae Property. The appraisal was submitted to IndyMac Bank FSB as part of the mortgage finance transaction. In reliance on the appraisal and additional information, IndyMac Bank, FSB funded a loan to Al-Akkad in the amount of \$696,000.

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

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

1.5 The Action alleged that KASHIFI intended to defraud the lenders in connection with the sale of the 2 Sol Brae and 4 Sol Brae Property.

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

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

2. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

2.2 Intentionally Blank.

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

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

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

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

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

2.4 Concurrently with the signing and delivery of this Settlement Agreement, KASHIFI shall execute a Stipulation for Entry of Judgment in the amount of Five Hundred Thousand Dollars and no cents (\$500,000.00) in the form attached hereto as Exhibit 1. The Stipulation for Entry of Judgment incorporates by reference the Judgment (Pursuant to Stipulation), attached to the Stipulation as Exhibit A (the "Judgment"). Both the Stipulation and Judgment are incorporated by reference herein and their terms made a part of this Settlement Agreement. The Judgment shall be non-dischargeable in bankruptcy. The Stipulation and Judgment shall be held in trust by FDIC-R's attorneys of record and shall not be filed unless KASHIFI breaches this Settlement Agreement, including any of the payments required by paragraph 2.3(a-d) above and fails to timely cure said breach pursuant to paragraph 2.6 after receiving notice of default as provided in paragraph 2.5. The Judgment (Pursuant to Stipulation) shall not be entered so long as KASHIFI performs under the terms of this Settlement Agreement with respect to making the payments required by paragraph 2.3(a-d) above.

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

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

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email: [REDACTED] facsimile: [REDACTED]

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

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

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

2.9 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement and, if necessary, the Judgment (Pursuant to Stipulation).

3. **RELEASE**

3.1 **Known and Unknown Claims.** The FDIC-R and KASHIFI acknowledge and agree that the release they give to each other upon executing this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which they may have against each other arising from or in conjunction with the Action relating to the 2 Sol Brae and 4 Sol Brae Property.

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3.3 The Parties understand and acknowledge that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with the Action relating to the 2 Sol Brae and 4 Sol Brae Property or any facts or circumstances related to the Action relating to the 2 Sol Brae and 4 Sol Brae Property, that Party will not be able to make any claim against any other Party for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release relating to the Action, but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

3.4 Except for the rights, duties, and obligations set forth in this Settlement Agreement and Stipulation for Entry of Judgment, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, to any damages, loss, or liability arising from or in conjunction with the Action relating to the 2 Sol Brae and 4 Sol Brae Property.

3.5 Notwithstanding any other provision of this Settlement Agreement and Stipulation for Entry of Judgment, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against HAMMERSLY, PRESIDIO and KASHIFI arising out of any other transactions or appraisals (other than set forth in the Action) and arising out of any other existing or failed financial institutions other than WASHINGTON MUTUAL BANK, FA and INDYMAC BANK, FSB.

3.6 Notwithstanding any other provision, by this Settlement Agreement, the FDIC-R does not release any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district.

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

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

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

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

4. **MISCELLANEOUS**

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

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

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

4.4 **Governing Law.** The Parties agree to submit to the Central District of California, for any dispute arising out of this Settlement Agreement, or related thereto,

and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

4.5 Attorneys Fees and Costs. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement and Stipulation for Entry of Judgment, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

4.6 Severability. The Parties hereto agree that if any provision of this Settlement Agreement or Stipulation for Entry of Judgment is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement and Stipulation for Entry of Judgment.

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

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement and Stipulation for Entry of Judgment voluntarily, having fully read and fully understood the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and Stipulation for Entry of Judgment and has conducted such inquiry as they deem necessary and advisable prior to entering into this Settlement Agreement and Stipulation for Entry of Judgment. The Parties enter into this Settlement Agreement and Stipulation for Entry of Judgment understanding that facts or other circumstances may exist which are presently unknown or undisclosed, or which are different from or other than those which they believe to be the case, and the Parties voluntarily assume all risks attendant to such unknown, undisclosed, different, or additional facts or other circumstances.

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

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

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

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

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

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

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

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

DATED: November 29, 2011

By:



DAVID A. KASHIFI

(b)(6)

DATED: November 29, 2011

APPROVED AS TO FORM

THE WILLIAMS FIRM (b)(6)

By

D. Alexander Floum
Attorneys for Defendant,
DAVID A. KASHIFI

(b)(6)

(b)(6)

DATED: November 30th, 2011

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

By:

[Redacted Signature Box]

(b)(6)

Signature

Richard S. Gill, Counsel
Type/Print Name and Title

DATED: November 30, 2011

ANDERSON, McPHARLIN & CONNERS
LLP

APPROVED AS TO FORM

[Redacted Signature Box]

(b)(6)

VANESSA H. WIDENER
Attorneys for Plaintiffs,
FEDERAL DEPOSIT
INSURANCE CORPORATION
as Receiver for INDYMAC
BANK, F.S.B. and FEDERAL
DEPOSIT INSURANCE
CORPORATION as Receiver for
WASHINGTON MUTUAL
BANK

SETTLEMENT AGREEMENT AND OPTION FOR RELEASE

THIS SETTLEMENT AGREEMENT AND OPTION FOR RELEASE ("Settlement Agreement") is entered into and made effective as of the 30th day of November, 2011 ("Effective Date"), by and between the Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, FSB ("FDIC-R") and Security Mortgage Funding Corporation ("SECURITY"). The FDIC-R and SECURITY may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

RECITALS

1.1 **WHEREAS**, on or about December 28, 2010, the FDIC-R filed a lawsuit against SECURITY entitled *FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for INDYMAC BANK, F.S.B. v. SECURITY MORTGAGE FUNDING CORPORATION*, in the United States District Court, Central District of California, Western Division, Case No. SA CV 10-01969. (hereinafter the "Action").

1.2 **WHEREAS**, SECURITY has denied the FDIC-R's allegations in the Action.

1.3 **WHEREAS**, without admitting liability, the Parties desire to and have agreed to enter into this Settlement Agreement relating to the Action upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

1.5 **Payment of the Settlement Funds.** SECURITY shall pay the total sum of Ninety Thousand Dollars (\$90,000) (the "Settlement Funds"). Payment of the Settlement Funds shall be according to the payment schedule set forth in paragraph 1.8 below. The Settlement Funds shall constitute the first \$90,000 of payments due under the payment schedule.

1.6 **SECURITY's Release Option.** SECURITY has the opportunity, but not the obligation, to obtain from the FDIC-R a release of any claims arising out of any

loans which it ever originated and were sold to IndyMac Bank, F.S.B. by SECURITY (the "LOANS") (the "Release Option").

a. If SECURITY elects to invoke the Release Option, then SECURITY must notify the FDIC-R, in writing, no later than November 30, 2013, of its exercise of the Release Option. Timely notice shall be given via mail, facsimile or electronic mail to: Michael H. Delbick, Esq., Mortgage Recovery Law Group, LLP, 700 North Brand Boulevard, Suite 830, Glendale, CA 91203; facsimile: [REDACTED] electronic mail: [REDACTED]

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b. If SECURITY elects to invoke the Release Option, then SECURITY shall pay to the FDIC-R an additional One Hundred Ten Thousand Dollars (\$110,000) (the "Release Settlement Payment"). The Release Settlement Payment shall be in addition to the amount of the Settlement Funds and shall bring the total amount payable by SECURITY to the FDIC-R under this Settlement Agreement to Two Hundred Thousand Dollars (\$200,000). Payment of the Release Settlement Payment shall be according to the payment schedule set forth in paragraph 1.8, below.

c. If SECURITY gives (1) timely notice of SECURITY's intent to exercise the Release Option as set forth herein, and (2) pays the Settlement Funds, then and only then shall the release of claims provisions set forth below become effective.

d. If SECURITY elects not to invoke the Release Option, then SECURITY does not need to provide any further notice to the FDIC-R. If SECURITY has not effectively exercised the Release Option on or before November 30, 2013, then effective December 1, 2013, the Release Option is automatically deemed rejected.

e. If SECURITY does not timely invoke the Release Option, then the FDIC-R is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.7 Payment Schedule. Payment to the FDIC-R by SECURITY of the Settlement Funds and, if applicable, the Release Option, shall be made according to the following schedule:

For payment of the Settlement Funds:

On or before January 30, 2012, SECURITY shall make a payment of Fifteen Thousand Dollars (\$15,000).

On or before April 1, 2012, SECURITY shall make an additional payment of Eleven Thousand Dollars (\$11,000).

Beginning on or before May 1, 2012, SECURITY shall make an additional payment of Three Thousand Dollars (\$3,000) each month for twelve (12) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2012, and the last such payment due on or before April 1, 2013;

Beginning on or before May 1, 2013, SECURITY shall make an additional payment of Four Thousand Dollars (\$4,000) each month for twelve (12) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2013, and the last such payment due on or before April 1, 2014;

If SECURITY exercises the Release Option, then for payment of the Release Settlement Payment:

Beginning on or before May 1, 2014, SECURITY shall make an additional payment of Five Thousand Dollars (\$5,000) each month for eighteen (18) months, due on or before the first day of each given month, with the first such payment due on or before May 1, 2014, and the last such payment due on or before October 1, 2015;

1.8 Payments shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number: [REDACTED] Routing Number: [REDACTED] Reference: Security Mortgage Settlement. Should the due date for any payment set forth above fall on a weekend or holiday, the payment shall be due no later than the next business day.

(b)(4)

(b)(4)

1.9 Payments of the Settlement Funds and, if applicable, the Release Settlement Payment are interest free if timely paid. If SECURITY defaults on any of its payment obligations under this Settlement Agreement and thereafter fails to cure the default as provided in Section 1.15 below, thereafter an additional 10% interest will begin to accrue and be added to and due on any unpaid sums.

1.10 **Financial Documents.** SECURITY has provided to the FDIC-R a current balance sheet and income statement (Financial Documents) for November 2010 through July 31, 2011. SECURITY represents and warrants that all of the information set forth in SECURITY's Financial Documents provided, including the information in the Financial Documents and Tax Returns provided for previous years are true and correct. If the information in the Financial Documents or Tax Returns is not true and correct and/or if SECURITY otherwise breaches this representation and warranty, then

the FDIC-R is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement, and any other claims arising out of the LOANS. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.11 Ownership of Claims. The FDIC-R represents and warrants that none of the loans identified in the Action have been sold or otherwise transferred to a collateralized loan pool or other third party with the exception of IndyMac Federal Bank, OneWest, or one of their affiliates. The FDIC-R further represents and warrants that it has not assigned any rights it may have or may have had with respect to repurchase and indemnification rights associated with the LOANS, to any other person or entity, including, without limitation, IndyMac Federal Bank, OneWest Bank, or any of their affiliates. This representation and warranty is a material inducement for SECURITY entering into this Settlement Agreement and shall survive the execution and delivery of the Settlement Agreement. Should a claim (1) be asserted against Security based on a claim of ownership of one of the loans identified in the Action or (2) be made by IndyMac Federal Bank, FSB, OneWest Bank or any of their affiliates against SECURITY with respect to repurchase and indemnification rights associated with the LOANS, SECURITY shall notify the FDIC-R of such claim, in writing, in the manner set forth in Paragraph 1.7 above. Upon proper notification of such claim by SECURITY to the FDIC-R, SECURITY shall be relieved of any further payment obligation under this Settlement Agreement until such claim is withdrawn against SECURITY. Once such claim has been withdrawn against SECURITY, SECURITY shall resume all payment obligations under this Settlement Agreement when due, including payment of any amount then due under the Payment Schedule set forth in Paragraph 1.8 above no later than sixty (60) days after SECURITY's receipt of written notice to the persons and in the manner identified in Paragraph 1.14 that such claim has been withdrawn.

1.12 Dismissal of Actions. The FDIC-R shall cause its attorneys, with cooperation as necessary from SECURITY's attorneys, to execute and file requests for dismissal of the Action, without prejudice. Dismissal of the Action without prejudice is a material term of the settlement.

1.13 Notice of Default. In the event SECURITY defaults by failing to make a timely payment to the FDIC-R as set forth in this Settlement Agreement, the FDIC-R shall give written notice of the default to SECURITY via mail, facsimile or electronic mail to: John Tate, Esq., Davis Wright Tremaine, LLP, 865 S. Figueroa St., Suite 2400, Los Angeles, CA 90017, T: [redacted] F: [redacted] email: [redacted]

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

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

1.14 Time to Cure. SECURITY shall have ten (10) business days from receipt of the notice of default to cure the default. If SECURITY fails to cure a default on the payment of the Settlement Funds within ten (10) business days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Settlement Funds that have not been paid, and/or is free to pursue any claims against SECURITY, including (but not limited to) the claims set forth in the Action, this Settlement Agreement, and any other claims arising out of the LOANS. If SECURITY fails to cure a default on the payment of the Release Settlement Payment within ten (10) days, the FDIC-R shall retain all consideration it received, and it may, in its sole discretion, pursue all legal and non-legal remedies to recover any portions of the Release Settlement Payment that have not been paid. Should the FDIC-R pursue any claims against SECURITY, the payments made by SECURITY under this Settlement Agreement will be offset against any future obligation or judgment.

1.15 Stay and Tolling Agreement. The parties agree that all claims arising from the LOANS between the FDIC-R and SECURITY (including but not limited to the loans identified in the Action, and all rights and defenses) are stayed until December 1, 2013. However, in the event SECURITY breaches this Settlement Agreement in any manner prior to April 1, 2004, FDIC-R has the option to terminate the stay following such breach and immediately pursue any and all claims arising from the LOANS or under this Settlement Agreement. The parties further agree that the applicable statute of limitations for any such claims shall be tolled from the Effective Date of this Settlement Agreement through December 15, 2013.

1.16 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement.

1.17 The Parties shall bear their own costs and attorneys' fees incurred in the Actions.

1.18 Conditional Release.

a. The FDIC-R's release of any claims arising out of the LOANS is conditioned upon SECURITY's (1) timely exercise of the Release Option and (2) the FDIC-R's receipt of the Settlement Funds. If the conditions herein for a release are met, FDIC-R agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

b. If the conditions herein for a Release Option are met, then SECURITY agrees that the release set forth in Sections 1.20, 1.21, 1.22, 1.23, and 1.24 shall become effective immediately without further action by either party.

1.19 Unknown Claims. Except for the obligations arising under this Settlement Agreement, each Party acknowledges that this Settlement Agreement applies to all claims for injuries, damages, or losses of any type or nature (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, patent or latent) which each Party may have against the other Party arising from the obligation to repurchase and/or indemnify for losses associated with the LOANS. Each Party hereby expressly waives application of California Civil Code §1542 and any other similar statute or rule with respect to the LOANS.

1.20 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, 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.”

1.21 Subject to the terms and conditions set forth in Paragraphs 1.7 and 1.19, above, the Parties mutually fully, finally, and forever release and discharge each other, and any and all of their respective past, present, and future affiliates, employees, members, partners, joint venturers, independent contractors, attorneys, insurers, investors, successors, assigns, representatives, officers, directors, shareholders, independent contractors, predecessors, successors and assigns, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, and/or employees of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, the obligation to repurchase and/or indemnify for losses associated with the LOANS, the claims and causes of action that were or could have been asserted

relating to the obligation to repurchase and/or indemnify for losses associated with the LOANS, or any facts or circumstances related to the obligation to repurchase and/or indemnify for losses associated with the LOANS.

1.22 IndyMac Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against SECURITY arising out of existing or failed financial institutions other than IndyMac Bank.

1.23 FDIC-R Only. Notwithstanding any other provision in this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office for any federal judicial district. In addition, the FDIC-R specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

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

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

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

1.27 Governing Law. The Parties agree to submit to the Courts of the United States of American, Central District of California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

1.28 Attorneys' Fees. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

1.29 Severability. The Parties hereto agree that if any provision of this Settlement Agreement is declared by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and such illegal or invalid part, term or provision shall be deemed not to be part of this Settlement Agreement.

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

1.31 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 Party 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.

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

1.33 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.

1.34 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.

1.35 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.

1.36 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.

1.37 Entire Agreement. The Parties hereto further agree and promise that this Settlement Agreement sets forth the entire agreement between and among the Parties with respect to the repurchase and/or indemnification obligations in connection with the LOANS, and fully supersedes any and all prior negotiations, agreements or understandings made between or among the Parties. This Settlement 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.

For: Federal Deposit Insurance Corporation as Receiver for IndyMac Bank, F.S.B.

For: Security Mortgage Funding Corporation (b)

(b)(6)

(b)(6)

By

[Redacted Signature Box]

By

[Redacted Signature Box]

Name: Richard S. Gill

Name: LISEN NGUYEN

Title: Counsel

Title: PRESIDENT

Date: 1-9-12

Date: JAN 10, 2012

(b)(6)



By: _____

Name: Maurice Wainer

Title: Counsel for Plaintiff, Federal
Deposit Insurance Corporation as
Receiver for IndyMac Bank, F.S.B.

Date: _____

~~Name: John R. Tate~~

Title: Counsel for Defendant Security
Mortgage Funding Corporation

Date: Jan 10, 2012

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into by and between The Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B., ("FDIC" or "Plaintiff"), on the one hand, and J. Zachary Johns, an individual doing business as Zack Johns Appraising, Inc. ("Johns") and Vicki Lickliter, an individual ("Lickliter") (collectively, "Defendants"). The FDIC and Defendants are referred to collectively as the "Parties."

RECITALS

A. WHEREAS, the FDIC filed a First Amended Complaint against Defendants and others entitled *Federal Deposit Insurance Corporation as Receiver of IndyMac Bank, F.S.B. v. Vicki Lickliter, et. al.*, in United States District Court, Southern District of Indiana, Case No. 1:10-CV-0323LJM-DML (the "Action").

B. WHEREAS, Defendants have denied the allegations of the First Amended Complaint.

C. WHEREAS, the Parties desire to resolve all of the FDIC's claims against Defendants as set forth in Plaintiff's First Amended Complaint.

AGREEMENT AND MUTUAL RELEASE

NOW, THEREFORE, in consideration of the undertakings contained in this Agreement, and other good, valuable and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Preamble, Recitals and Exhibits. The foregoing preamble and recitals are true and correct and are integral parts of this Agreement.

2. Settlement Payment by Defendants to FDIC. No later than thirty (30) business days following full execution of this Agreement, Defendants shall pay Plaintiff the total amount of Three Hundred Seventy One Thousand Dollars and No Cents (\$371,000.00) ("Settlement Payment"). The Settlement Payment amounts shall be apportioned among Defendants as follows:

- a. \$192,500 shall be paid by Johns through his insurance carrier;
- b. \$177,500 shall be paid by Lickliter through her insurance carrier; and
- c. \$1,000 shall be paid by Lickliter as her deductible.

These Settlement Payments may be made by check, made payable to "FDIC as Receiver for IndyMac Bank FSB." The Parties agree that timely receipt of all Settlement Payment amounts as set forth in Paragraph 2, Sections (a) through (c), above, is an essential term of this Agreement, and a condition to the effectiveness of this Agreement.

3. Dismissal of the Action. Together with the execution of this Agreement, counsel for the Parties shall execute a Stipulation of Dismissal of the Action against Defendants, with prejudice. Upon the receipt and clearing of all Settlement Payments, so that good and clear funds in the amount agreed to herein are actually received by Plaintiff, counsel for Plaintiff shall file the executed Stipulation of Dismissal with the Court and obtain an Order from the Court dismissing the action with prejudice.

4. Court to Retain Jurisdiction. The Parties agree that the Court shall have continuing jurisdiction to enforce the provisions of this Agreement to the fullest extent permitted by law.

5. Release by Plaintiff. The FDIC hereby releases and forever discharges Defendants and their current and former employees, agents, sureties, bonding companies,

insurers, attorneys, re-insurers, companies, corporations, successors, administrators, executors, assigns and affiliates, of and from any and all claims, and demands of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims or causes of action set forth in the Action, except as expressly reserved in Paragraph 6, below.

6. Express Reservations from Release by Plaintiff. Notwithstanding any other provision contained herein, by this Agreement, Plaintiff 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, occurrences and transactions alleged in the Action, and (b) any claims relating to the facts, occurrences and transactions alleged in the Action against any other person or entity not released in Paragraph 5, above. This Agreement does not waive or release any claim Plaintiff may have relating to or arising from any loan other than the loan at issue in the Action as set forth in Plaintiff's First Amended Complaint. In addition, this Agreement does not purport to waive, nor is it intended to waive, any claims which could be brought by the United States through either the Department of Justice, the United States Attorney's Office, or any other federal department or agency, including any rights, if appropriate, to court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*

7. Release by Defendants. Defendants hereby release and forever discharge Plaintiff and its current and former officers, directors, employees, agents, insurers, attorneys, subsidiaries, predecessors, related companies, parent companies, successors, assigns, and affiliates, of and from any and all claims, and demands of every kind and nature, in law, equity, or otherwise,

known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims set forth in the Action.

8. Representations and Warranties. The Parties represent and warrant to and agree with each other as follows:

- a. Plaintiff and Defendants have received independent legal advice from attorneys of their choice with respect to the advisability of entering into this Agreement and of giving the releases provided herein.
- b. In connection with the execution of this Agreement and the making of the settlement provided for herein, no Party to this Agreement has relied upon any statement, representation or promise of any other Party not expressly contained herein.
- c. This Agreement is fully integrated and contains the entire agreement of the Parties hereto. There are no agreements or understandings between the Parties hereto relating to the matters and releases referred to in this Agreement other than as set forth in this Agreement, and this Agreement supersedes and replaces any and all prior negotiations and agreements between the Parties hereto, whether written or oral.
- d. Plaintiff and Defendants have made such investigation of the facts pertaining to the releases contained herein as they deem necessary.
- e. The terms of this Agreement are contractual and are the result of negotiation among the Parties. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made

of this Agreement, the role of the Party in drafting and preparation of the Agreement shall not be referred to in order to construe the Agreement against that Party, and that canon of contractual interpretation shall not be applied.

- f. This Agreement has been carefully read by each of the Parties and the contents thereof are known and understood by each of the Parties. This Agreement is signed freely by each Party executing it.
- g. The Parties have not assigned or transferred any of their claims being released herein.

9. Consideration. The consideration received in connection with this Agreement is fair, adequate and substantial and consists only of the terms set forth in this Agreement.

10. Modifications. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement subscribed by all of the Parties to be charged with such modification.

11. Agreement Binding on Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective officers, directors, joint venturers, partners, employees, agents, servants, heirs, administrators, executors, successors, representatives and assigns.

12. Applicable Law. This Agreement has been negotiated and exchanged in the State of Indiana. As such, this Agreement and all matters relating thereto shall be governed by the laws of the State of Indiana without regard to its principles of conflicts of law. In addition, in the event of any disputes arising between the Parties out of this Agreement, the Parties agree that the

exclusive venue in which all disputes shall be resolved shall be by way of an action filed in the United States District Court for the Southern District of Indiana.

13. Execution and Delivery Required – Effective Date. This instrument shall not be considered to be the Agreement (defined above) or an enforceable contract, nor shall it create any obligation whatsoever on the part of any or all of the Parties, nor shall it or any of its terms constitute an undertaking by any of the Parties unless and until the date on which counterparts of it have been signed by and exchanged amongst all Parties (via facsimile, e-mail or otherwise) (the “Effective Date”). Until the Effective Date, any Party who may already have signed and exchanged one or more counterparts of this Agreement with other Parties shall have the right to revoke such signature. On the Effective Date, this instrument shall become the Agreement and shall become a binding and enforceable contract.

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. Signatures on this Agreement, or any counterpart of this Agreement, transmitted by facsimile machine or electronic mail in .pdf format shall have the same force and effect as original signatures.

15. Construction. Each of the masculine, feminine and neuter genders shall include the others. The singular shall include the plural and vice-versa.

16. Severability. In the event any provision of this Agreement shall be held to be void, voidable or unenforceable, the remaining provisions shall remain in full force and effect.

17. Warranty of Authority. Each Party or attorney whose signature is affixed hereto in a representative capacity represents and warrants that he or she is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf his or her signature is affixed and

that he or she is acting in the scope of such agency and authority. Each Party specifically represents and warrants that no signatures other than those made on this Agreement are necessary to bind the Parties to all of the obligations imposed by the Agreement.

18. Attorneys' Fees and Costs. Plaintiff and Defendants each agree to pay their own costs, attorneys' fees and expenses incurred in connection with the Action.

19. Captions and Headings. The captions, paragraph numbers and paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

20. Notices. Any notice required under this Agreement shall be in writing and shall be sent via both e-mail and either by (i) hand delivery or certified or registered mail, postage prepaid, with return receipt requested, or (ii) fax, with a conformed copy by US Mail, postage prepaid, and with such writing to be addressed to the Parties as follows:

| <u>Person To Receive Notice</u> | <u>Notification Information</u> |
|---------------------------------|--|
| Plaintiff: | Paul A. Levin Mortgage Recovery Law Group, LLP 700 North Brand Boulevard, Suite 830 Los Angeles, California 91203 Telephone: [REDACTED] Email: [REDACTED] |
| With a copy to: | Dale W. Eikenberry Wooden & McLaughlin LLP 211 North Pennsylvania Street One Indiana Square, Suite 1800 Indianapolis, IN 46204-4208 Telephone: [REDACTED] [REDACTED] |

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| <u>Person To Receive Notice</u> | <u>Notification Information</u> |
|---------------------------------|---|
| Defendant Lickliter: | Vicki Lickliter <div style="border: 1px solid black; width: 150px; height: 40px; margin-top: 5px;"></div> |
| With a copy to: | Donald F. Foley Foley & Abbott 342 Massachusetts Ave., Ste 300 Indianapolis, IN 46204 |
| Defendant Johns: | J. Zachary Johns <div style="border: 1px solid black; width: 150px; height: 40px; margin-top: 5px;"></div> |
| With a copy to: | Cornelius J. Harrington III c/o Bullaro & Carton, P.C. 200 N. LaSalle Street, Suite 2420 Chicago, IL 60601 |

(b)(6)

(b)(6)

The above addresses may be changed by any Party as to such Party by providing the other Parties notice of any address change in the same manner as is provided above, and which change shall be effective as to any Party upon receipt of written notice from the other Party. In the event that written notice, demand, or request is made as provided in this paragraph, that writing shall be deemed to have been received by the Party to whom it was addressed on the earliest of (i) the date that the notice was hand delivered, (ii) the date the notice was sent via facsimile (so long as a facsimile transmittal confirmation sheet is contemporaneously generated by the facsimile

machine from which the transmission occurred), or (iii) three (3) days after properly addressed notice was deposited with the U.S. Postal Service, applicable postage prepaid.

21. Remedies. All Parties shall be entitled to all remedies available at law or in equity for any violation of this Agreement, including, but not limited to the remedy of specific performance.

22. Further Assurances. The Parties shall execute such other documents as may be reasonably necessary to carry out the terms and conditions of this Agreement.

23. Survival. All warranties, representations, covenants, and agreements set forth herein shall survive the Effective Date.

24. Compliance Dates. In the event that any date specified in this Agreement shall be on a Saturday, Sunday, or a nationally-declared holiday, then the date so specified shall be deemed to be the next business day following such date, and compliance by such business day hereunder shall not be deemed a default by either of the Parties under this Agreement.

25. Waiver. The waiver by one Party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such Party of any other covenant or condition or of any later instance of the previously waived covenant or condition. The waiver by any Parties of the time for performing any act shall not constitute a waiver at the time for performing any other act or an identical act required to be performed at a later time.

26. Jury Trial Waiver. The Parties hereby waive any and all rights that they may otherwise have to a trial by jury in any action, proceeding, claim, counterclaim or third party complaint, whether in contract or tort, at law or in equity, arising out of or in any way related to this Agreement.

27. Entire Agreement. This Agreement contains the complete agreement of the Parties concerning the subjects of this Agreement and supersedes all prior drafts of this Agreement and all other prior agreements, promises, acknowledgements, representations and warranties, if any, that may have been made between or among the Parties concerning that subject of this Agreement, whether in connection with the negotiation of this Agreement or otherwise. This Agreement has been the product of negotiation. The Parties have had the opportunity to obtain independent advice from counsel. Prior draft documents were prepared, exchanged and discussed by some or all of the Parties before finally reaching and entering into this Agreement. In any number of instances, words used in prior drafts may have been changed or removed from the language ultimately agreed to in this Agreement. In the event of a dispute over the meaning of any of the provisions or requirements of this Agreement, the fact that other words may have been used or deleted from earlier draft documents or provisions in such draft documents that were modified before being included herein, shall not be used to aid in the construction of the meaning and legal effect of this Agreement. This Agreement may not be modified or changed except by a written instrument executed by all of the Parties and no rights under it may be waived except by a writing signed by the waiving Party. No promises, representations, warranties, agreements or other understandings exist between the parties with respect to the subject matter of this Agreement, and this Agreement supersedes and discharges any and all prior promises, acknowledgements, representations, warranties, agreements or other understandings that existed or may have existed between the Parties.

Dated: November 16, 2011

By:

[Redacted Signature]

(b)(6)

RICHARD S. GILL
Authorized on behalf of The Federal Deposit
Insurance Corporation, as Receiver for
IndyMac Bank, F.S.B.

(b)(6)

Dated: November 22, 2011

By:

[Redacted signature box]
VICKI LICKLITER, an individual

Dated: November _____, 2011

By:

J. ZACHARY JOHNS, an individual doing
business as ZACK JOHNS APPRAISER

APPROVED AS TO FORM:

WOODEN & MCLAUGHLIN LLP

Dated: November _____, 2011

By:

DALE W. EIKENBERRY, attorney
for Plaintiff the Federal Deposit Insurance
Corporation, as Receiver for IndyMac Bank,
F.S.B.

FOLEY & TURNER

(b)(6)

Dated: November 30, 2011

[Redacted signature box]

Donald F. Foley
for Defendant Vicki Lickliter

(b)(6)

BULLARO & CARTON, P.C.

Dated: November _____, 2011

By:

Cornelius J. Harrington, III
for Defendant J. Zachary Johns, an individual
doing business as Zack Johns Appraisal

Dated: November _____, 2011

By: _____
VICKI LICKLITER, an individual

(b)(6)

Dated: November 30, 2011

(b)(6) _____
J. ZACHARY JOHNS, an individual doing
business as ZACK JOHNS APPRAISER

APPROVED AS TO FORM:

WOODEN & MCLAUGHLIN LLP

(b)(6)

Dated: November 22nd, 2011

(b)(6) _____
By: _____
DALE W. EIKENBERRY, attorney
for Plaintiff the Federal Deposit Insurance
Corporation, as Receiver for IndyMac Bank,
F.S.B.

FOLEY & TURNER

Dated: November _____, 2011

By: _____
Donald F. Foley
for Defendant Vicki Lickliter

BULLARO & CARTON, P.C.

(b)(6)

Dated: November 28th, 2011

(b)(6) _____
Cornelius J. Harrington, III
for Defendant J. Zachary Johns, an individual
doing business as Zack Johns Appraisal

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 23rd day of November 2011 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B. ("FDIC") and CHARTER CAPITAL CORPORATION dba FIRST CAPITAL GROUP, INC. ("CHARTER CAPITAL"). The FDIC and CHARTER CAPITAL may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 On or about January 5, 2011, the FDIC filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC BANK, F.S.B. v. CHARTER CAPITAL CORPORATION dba FIRST CAPITAL GROUP, INC., a California corporation, United States District Court for the Central District of California Case No. CV11-00107-MAN (hereinafter "Action"). The FDIC sought damages from CHARTER CAPITAL arising out of mortgage loans it made to Lynn and Aldridge Vida and Patrick and Tiffany Naeole. The Complaint included claims for breach of contract and negligence. In its answer, CHARTER CAPITAL denied they were liable to the FDIC for damages.

1.2 On or about May 4, 2006, IndyMac Bank, F.S.B. ("IndyMac") and CHARTER CAPITAL entered into a business relationship governed by a written Seller Contract and e-MITS User Agreement (the "Agreement"). The FDIC contends the Agreement incorporates the Lending Guide and sets forth the terms by which IndyMac would purchase and/or fund residential loans secured by real property which were processed, packaged and submitted by CHARTER CAPITAL.

1.3 The FDIC contends on June 18, 2007, CHARTER CAPITAL sold to IndyMac the loans to Patrick and Tiffany Naeole which were secured by the real property located at 91-740 Oneula Place, Ewa Beach, HI ("Naeole Loans"). The Naeole Loans failed to comply with the terms of the Agreement in that the borrower's income was misrepresented, the borrower's credit obligations were misrepresented, and the borrower's intent to occupy the property was misrepresented. The FDIC also contends on October 17, 2007, CHARTER CAPITAL sold to IndyMac the loans to Lynn and Aldridge Vida which were secured by the real property located at 211 Kahana Ridge Dr., Lahaina, HI ("Vida Loans"). The Vida Loans failed to comply with the terms of the Agreement in that the borrower's income was misrepresented. Due to these breaches, the FDIC sought indemnification of its losses on the loans as called for in the Agreement.

1.4 CHARTER CAPITAL denies the FDIC's claims. Specifically, and without limitation, CHARTER CAPITAL denies that (1) it breached the representations and warranties provisions of the Agreement and the Lending Guide; (2) it breached any duty owed to IndyMac or the FDIC; (3) the loan documentation prepared and submitted

by CHARTER CAPITAL contained any misrepresentations; or (4) the FDIC and/or IndyMac suffered or will suffer any loss, damage, or cost related in any way to the Naeole Loans and the Vida Loans.

1.5 The Parties desire and have agreed to settle all claims between the FDIC and CHARTER CAPITAL relating the Naeole Loans and the Vida Loans. By entering into this Settlement Agreement, the parties are not admitting the allegations as set forth in the Complaint.

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 the FDIC.** Payment of Three Hundred Thousand Dollars and no/cents (\$300,000.00) (the "Settlement Funds") shall be paid on behalf of CHARTER CAPITAL to the FDIC. The initial payment (the "Initial Payment") shall be for Two Hundred Thousand Dollars and no/cents (\$200,000.00) and shall be paid within fifteen (15) days of CHARTER CAPITAL's execution of this Settlement Agreement. CHARTER CAPITAL shall deliver the Initial Payment, and all payments to the FDIC c/o Mortgage Recovery Law Group, LLP at 700 N. Brand Blvd, Suite 830, Glendale CA 91203, Attn: Paul A. Levin and Andrew P. Baeza. The Initial Payment shall be paid by certified funds made payable to: Mortgage Recovery Law Group Trust Account. Then, CHARTER CAPITAL shall make payments on the first of each month as follows:

- a. December 15, 2011 - \$8,333.33;
- b. January 1, 2012 - \$8,333.33;
- c. February 1, 2012 - \$8,333.33;
- d. March 1, 2012 - \$8,333.33;
- e. April 1, 2012 - \$8,333.33;
- f. May 1, 2012 - \$8,333.33;
- g. June 1, 2012 - \$8,333.33;
- h. July 1, 2012 - \$8,333.33;

- i. **August 1, 2012 – \$8,333.33;**
- j. **September 1, 2012 – \$8,333.33;**
- k. **October 1, 2012 – \$8,333.33;**
- l. **November 1, 2012 - \$8,333.37;**

2.3 Concurrently with the signing and delivery of this Settlement Agreement, CHARTER CAPITAL shall execute a Stipulation for Judgment in the form attached hereto as Exhibit A. The Stipulation for Judgment shall be held in trust by the FDIC's attorneys of record and shall not be filed unless CHARTER CAPITAL breaches paragraph 2.2 above and fails to timely cure said breach after receiving written notice of default as provided in paragraph 2.4 below. Judgment shall not be entered so long as CHARTER CAPITAL performs under the terms of this Settlement Agreement with respect to making the Payments required by paragraph 2.2 above.

2.4 In the event CHARTER CAPITAL defaults by failing to make a timely payment to the FDIC as set forth in paragraph 2.2 above, the FDIC shall give written notice of the default and notice of its intent to enter Judgment on the Stipulation for Judgment to CHARTER CAPITAL via e-mail and overnight mail to their attorney of record as follows: Eric Schiffer, Esq., 4675 MacArthur Court, Suite 590, Newport Beach, CA 92660; telephone [REDACTED] facsimile [REDACTED] e-mail [REDACTED]

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

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

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

[REDACTED] CHARTER CAPITAL shall have ten (10) business days after written notice of default is sent to Mr. Schiffer to cure the default. If CHARTER CAPITAL fails to cure the default within ten (10) business days, the FDIC shall cause Judgment (to be entered as set forth in Paragraph 2.3 above.

2.5 Within ten (10) business days of the FDIC's receipt of the Initial Payment as set forth in paragraph 2.2, the FDIC's counsel shall file a request for dismissal of the entire Action with prejudice.

2.6 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 Stipulation for Judgment and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement and, if necessary, the Stipulation for Judgment.

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

3. RELEASE

3.1 Known and Unknown Claims. The FDIC and CHARTER CAPITAL 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) arising from or in conjunction with or related to the facts and circumstances giving rise to the Action, along with any and all loans sold, brokered, or otherwise delivered by CHARTER CAPITAL to IndyMac or any other legal matters arising from any and all agreements between CHARTER CAPITAL and IndyMac including, but not limited to, the Agreement and Lending Guide, as defined in paragraph 1.2 above, (the "Non-Action Matters").

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action and the Non-Action Matters. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3.3 The Parties understand and acknowledge that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with the Action or Non-Action Matters or any facts or circumstances related to the Action or Non-Action Matters, that Party will not be able to make any claim against any other Party for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release relating to the Action or Non-Action Matters, 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, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner,

to any damages, loss, or liability arising from, in conjunction with, or related to the Action or any facts or circumstances related to the Action.

3.5 Notwithstanding any other provision of this Settlement Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against CHARTER CAPITAL arising out of existing or failed financial institutions other than IndyMac. The FDIC represents that it retains the rights to pursue any claims arising out of or related to the Naeole Loans and the Vida Loans against third parties other than CHARTER CAPITAL and any and all of its officers, directors, employees .

4. MISCELLANEOUS

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

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

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

4.4 **Governing Law.** The Parties agree to submit to the 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.

4.5 **Attorneys Fees and Costs.** Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

4.6 **Severability.** The Parties hereto agree that if any provision of this Settlement Agreement 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.

4.7 **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.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understood the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and 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.

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

4.10 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.

4.11 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.

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

4.13 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement, 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.

4.14 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 Settlement 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 __, 2011
APPROVED AS TO FORM

SCHIFFER & BUUS APC

By: _____
Eric M. Schiffer
Attorneys for Defendant CHARTER CAPITAL CORPORATION dba FIRST CAPITAL GROUP, INC.

DATED: November __, 2011

CHARTER CAPITAL GROUP dba FIRST CAPITAL GROUP, INC.

By: _____
Signature

Type/Print Name and Title

DATED: November __, 2011
APPROVED AS TO FORM

SNIPPER WAINER & MARKOFF

By: _____
Maurice Wainer
Attorneys for Plaintiff FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B.

DATED: November 28, 2011

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

By: (b)(6)

Jack S. Dunbar, Counsel
Type/Print Name and Title

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 28, 2011
APPROVED AS TO FORM

SCHIFFER & BUUS APC

By:

[Redacted Signature]

(b)(6)

Eric M. Schiffer (b)(6)

Attorneys for Defendant CHARTER CAPITAL CORPORATION dba FIRST CAPITAL GROUP, INC.

DATED: November 25, 2011

CHARTER CAPITAL GROUP dba FIRST CAPITAL GROUP, INC.

By:

[Redacted Signature]

(b)(6)

Mark E. Lachtman, President
Type/Print Name and Title

DATED: November __, 2011
APPROVED AS TO FORM

SNIPPER WAINER & MARKOFF

By:

Maurice Wainer

Attorneys for Plaintiff FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B.

DATED: November __, 2011

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

By:

Signature

Type/Print Name and Title

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 15th day of ~~October~~ ^{November} 2011 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC BANK, F.S.B. ("FDIC-R"), and William Lenocker ("LENOCKER"). The FDIC-R and LENOCKER may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 On or about February 8, 2011, the FDIC-R filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR INDYMAC BANK, F.S.B. vs. AMERICAN SIGNATURE FUNDING, INC.; AMERICAN SIGNATURE ESCROW; STARS AND STRIPES REALTY, INC. dba RE/MAX SIGNATURE PROPERTIES; BRADLEY SCOTT KESSEL; WILLIAM LENOCKER; GONZALO GONZALEZ; CHRISTOPHER YOSHIYUKI TAKAGAKI; GENTARO KURIHARA, individually and as trustee for the Kurihara Family Trust; THE KURIHARA FAMILY TRUST DATED FEBRUARY 1, 2007, and DOES 1 through 10, inclusive, Case No. SACV11-00231-DOC (MLGx) (hereinafter "Action").

1.2 The Action alleged that on June 7, 2007, IndyMac Bank, FSB ("IndyMac") funded a loan to Rita Hudgens in the principal amount of \$242,750 ("Hudgens Loan") for her purchase of the real property located at 3281 Deputy Evans, Norco, CA ("Deputy Evans Property"); and that on July 2, 2007, IndyMac made two loans to Dominique Ocampo totaling \$1,045,000 ("Ocampo Loans") which were secured by the real property located at 2633 Hudson Avenue, Corona, CA ("Hudson Property"). The Action alleged that defendants participated in a property flipping scheme relating to the Deputy Evans Property and Hudson Property and conceal facts which were crucial to IndyMac's decisions to fund the loans. The Action alleged the borrower's defaulted on the loans within the first few months resulting in damages to the FDIC of more than \$1,183,549.29.

1.3 LENOCKER disputes and denies the FDIC's claims in the Action.

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

2. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, agree as follows:

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

SETTLEMENT AGREEMENT

Page 2 of 6

2.2 Payment to the FDIC-R by LENOCKER. Payment of One Hundred Thousand Dollars and no/cents (\$100,000.00) shall be paid on behalf of LENOCKER to the FDIC-R no later than November 30, 2011. Payment shall be made by wire transfer made payable to "Mortgage Recovery Law Group Trust Account," Account Number: (b)(4) [redacted] Routing Number: (b)(4) [redacted] Reference: American Signature Settlement.

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

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

2.5 Each Party agrees that Section 664.6 of the Code of Civil Procedure of the State of California shall apply to this Settlement Agreement and requests that the court retain jurisdiction over the Parties to enforce this Settlement Agreement.

3. RELEASE

3.1 Known and Unknown Claims. The FDIC-R and LENOCKER 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 Action.

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

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

SETTLEMENT AGREEMENT

Page 3 of 6

relating to the Action, but which that Party does not know exists, and which, if known, would materially affect that Party's decision to execute this release, regardless of whether that Party's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

3.4 Except for the rights, duties, and obligations set forth in this Settlement Agreement, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, to any damages, loss, or liability arising from or in conjunction with the Action.

3.5 Notwithstanding any other provision of this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against LENOCKER arising out of any other transactions (other than set forth in the Action) and arising out of any other existing or failed financial institutions other than INDYMAC BANK, FSB.

3.6 Notwithstanding any other provision, by this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed, any action taken by any other federal agency. In addition, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district. In addition, the FDIC specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*, if appropriate.

4. MISCELLANEOUS

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

SETTLEMENT AGREEMENT

Page 4 of 6

4.2 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.

4.3 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.

4.4 Governing Law. The Parties agree to submit to the Courts of the City and County of Orange, California, for any dispute arising out of this Settlement Agreement, or related thereto, and consent to the jurisdiction of said Courts and further agree that any and all matters of dispute shall be adjudicated, governed and controlled under California law.

4.5 Attorneys Fees and Costs. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

4.6 Severability. The Parties hereto agree that if any provision of this Settlement Agreement 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.

4.7 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.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understood the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and 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.

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

SETTLEMENT AGREEMENT

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4.10 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.

4.11 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.

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

4.13 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement, 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.

4.14 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 Settlement Agreement shall not be modified except in a writing signed by the Parties or their authorized representatives.

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SETTLEMENT AGREEMENT

Page 6 of 6

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 _____, 2011
APPROVED AS TO FORM

LAW OFFICES OF HERMAN THORSEN

By: _____
Jozef G. Magyar
Attorneys for Defendant,
WILLIAM LENOCKER

DATED: November 15th, 2011

By: _____ (b)(6)
WILLIAM LENOCKER

DATED: November _____, 2011
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By: _____
VANESSA H. WIDENER
Attorneys for Plaintiff, FEDERAL DEPOSIT
INSURANCE CORPORATION, AS RECEIVER FOR
INDYMAC BANK, F.S.B.

DATED: November _____, 2011

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR INDYMAC
BANK, F.S.B.

By: _____
Signature

Type/Print Name and Title

SETTLEMENT AGREEMENT

Page 6 of 6

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 15, 2011
APPROVED AS TO FORM

LAW OFFICES OF HERMAN THORSEN

By: 
(b)(6) Jozef G. Magyar
Attorneys for Defendant,
WILLIAM LENOCKER

(b)(6)

DATED: November _____, 2011

By: _____
WILLIAM LENOCKER

DATED: November _____, 2011
APPROVED AS TO FORM

ANDERSON, McPHARLIN & CONNERS LLP

By: _____
VANESSA H. WIDENER
Attorneys for Plaintiff, FEDERAL DEPOSIT
INSURANCE CORPORATION, AS RECEIVER FOR
INDYMAC BANK, F.S.B.

DATED: November 16, 2011

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR INDYMAC
BANK, F.S.B.

By:  (b)(6)

Jock S. Duncan, Counsel
Type/Print Name and Title

SETTLEMENT AGREEMENT AND RELEASE

This Settlement agreement and Release ("Agreement") is made and entered into by and between The Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B. ("FDIC" or "Plaintiff"), on the one hand and Genesis Title Company, LLC ("GENESIS"), Gustavo E. Mata and Silvia C. Mata ("MATAS") on the other hand. The FDIC, GENESIS, and the MATAS are referred to collectively as the "Parties."

RECITALS

A. WHEREAS, the FDIC filed a Complaint against GENESIS and the MATAS entitled *Federal Deposit Insurance Corporation as Receiver of IndyMac Bank, F.S.B. v Genesis Title Company, LLC, et. al.*, in the United States District Court for the Southern District of Florida, Case No. 11-20841 CV-ALTONAGA/SIMONTON (the "Action");

B. WHEREAS, GENESIS and the MATAS have denied the allegations of the Complaint;

C. WHEREAS, FDIC, GENESIS and the MATAS amicably resolved their dispute at mediation and desire to fully memorialize their agreement (a copy of the mediation settlement is attached as Exhibit "A");

D. WHEREAS, the Parties desire to resolve the FDIC's claims against GENESIS and the MATAS, and agree as follows:

AGREEMENT

NOW, THEREFORE, in consideration of the undertakings contained in this agreement, and other good, valuable and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Preamble, Recitals and Exhibits. The foregoing preamble and recitals are

true and correct and are integral parts of this agreement.

2. Settlement Payment by GENESIS. GENESIS shall pay to Plaintiff ONE HUNDRED AND EIGHTY THOUSAND AND NO/100 DOLLARS (\$180,000.00), in full satisfaction and accord of all of Plaintiff's claims against GENESIS and to its officers, directors employees, agents and insurers as well as against any person or entity with an indemnity or contribution claim against GENESIS, known or unknown, asserted or that could have been asserted in the above styled cause or which otherwise are in any way related to the contract, circumstances and matters described in Plaintiff's pending complaint (collectively, "Plaintiff's Asserted Claims Against GENESIS"). Said sum shall be paid within thirty (30) days from the date of this Settlement Agreement and shall be payable to WELBAUM, GUERNSEY HINGSTON, GREENLEAF, GREGORY, BLACK & RUNE, LLP Trust Account. [Plaintiff's counsel to promptly furnish GENESIS' counsel with Form W-9.]

3. Dismissal of the Action against GENESIS. Contemporaneous with said payment being made and upon clearance of funds:

(a) Plaintiff to furnish to GENESIS an unconditional general release of Plaintiff's Asserted Claims Against GENESIS. Said release shall extend to and release GENESIS' affiliates, parents, subsidiaries, officers, directors, members, managing members, employees, agents, insurers, re-insurers and attorneys as well as to its successors and assigns as well as against any person or entity with an indemnity or contribution claim against GENESIS,

(b) Counsel for the parties shall file a joint motion requesting entry of an order dismissing with prejudice Plaintiff's complaint as to GENESIS and that Plaintiff and GENESIS shall each bear said party's own costs and attorney's fees.

4. Settlement Payment by the MATAS. MATAS shall pay to Plaintiff TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), in full satisfaction and accord of all of Plaintiff's claims against MATAS, known or unknown, asserted or that could have been asserted in the above styled cause or which otherwise are in any way related to the contract, circumstances and matters described in Plaintiff's pending complaint (collectively, "Plaintiff's Asserted Claims Against MATAS"). Said sum shall be paid as follows: \$5,000.00 by and not later than 3:00 p.m. on Friday, September 30, 2011 and the remaining \$5,000.00 shall be due and payable by and not later than 3:00 p.m. on Wednesday, December 21, 2011; both sums shall be payable to WELBAUM, GUERNSEY HINGSTON, GREENLEAF, GREGORY, BLACK & RUNE, LLP Trust Account. [Plaintiff's counsel to promptly furnish MATAS' counsel with Form W-9.]

5. Dismissal of the Action against the MATAS. When Plaintiff has received the entire \$10,000.00 settlement from MATAS and upon clearance of funds:

(a) Plaintiff to furnish to MATAS an unconditional general release of Plaintiff's Asserted Claims Against MATAS. Said release shall extend to and release MATAS' affiliates, parents, subsidiaries, officers, directors, members, managing members, employees, agents, insurers, re-insurers and attorneys as well as to their successors and assigns.

(b) Counsel for the parties shall file a joint motion requesting entry of an order dismissing with prejudice Plaintiff's complaint as to MATAS and that Plaintiff and MATAS shall each bear said party's own costs and attorney's fees.

(c) Time is of the essence regarding such payment and if for any reason whatever said either of the aforementioned \$5,000.00 payments is not received by Plaintiff's counsel by and not later than the respective due day stated above (as there is no grace

period whatever), Plaintiff may immediately thereafter secure (upon the filing of an affidavit of non-payment by Plaintiff's undersigned counsel - with contemporaneous copy to be sent to MATAS' undersigned counsel) by mail and without the need for a hearing, entry of an agreed final judgment for \$100,000.00 (less payment made) and, in addition, an award of a reasonable attorney's fee and costs for services rendered regarding any default that occurs after the execution of this Settlement Agreement.

7. GENESIS and the MATAS to mutually release each other.

8. FDIC represents that it will not bring an enforcement action against GENESIS or its licensed agents to preclude their employment by FDIC insured banks as a result of the matters released in this settlement.

9. Express Reservations from Release by Plaintiff. Notwithstanding any other provision contained herein, by this agreement, Plaintiff 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, occurrences and transactions alleged in the Action, (b) any claims brought on behalf of another failed institution or another governmental entity, or (c) any claims relating to the facts, occurrences and transaction alleged in the Action against any other person or entity not released in Paragraphs 2 and 4, above except insofar as such other person or entity has an indemnity or contribution claim against GENESIS, This agreement does not waive or release any claim Plaintiff may have relating to or arising from any loan other than the loan at issue in the Action. In addition, this Agreement does not purport to waive, nor is it intended to waive, any claim which could be brought by the United States through either the Department of Justice, the United States Attorney's Office, or any other

federal department or agency, including any rights, if appropriate, to court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*

MISCELLANEOUS

10. Counterparts. This Settlement Agreement may be executed by counsel and the parties in counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same document. This Settlement Agreement may also be executed by way of facsimile or E-Mail transmitted documents in lieu of original signatures and a signed copy produced by facsimile or E-Mail transmission shall be binding upon all parties as an original and fully admissible in any legal proceeding regarding this Settlement Agreement, notwithstanding the best evidence rule or any similar rule. Each of the parties and each counsel executing this Settlement Agreement further acknowledges that said party's signature and said counsel's signature that is affixed to this Settlement Agreement is a valid and effectual electronic signature, as defined by Sec. 668.003(4), Florida Statutes 2009; and that, as provided by Sec. 668.004, Florida Statutes, each of said signatures shall have the same force and effect as a written signature.

11. Disclosure. It is expressly recognized that pursuant to 12 U.S.C. § 1821(s), the FDIC may not enter into any agreement or approve any protective order which prohibits the FDIC from disclosing the terms of any settlement of any administrative or other action for damages or restitution brought by the FDIC in its capacity as conservator or receiver for an insured depository institution. It is further recognized that the FDIC is subject to Freedom of Information Act ("FOIA") requests and similar obligations to engage in inter-agency

disclosure which do not permit it to conceal the existence, terms and conditions of this Agreement.

12. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is found to be unenforceable, the other provisions shall remain fully valid and enforceable.

13. Entire Agreement. This Agreement sets forth the entire agreement between the parties and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter of this Agreement including attached Exhibit "A".

14. Advice of Counsel. The parties acknowledge that they have reviewed this Agreement in its entirety, having consulted such legal, tax and other advisors as they deem appropriate, and understand and agree to each of the provisions of this Agreement. The parties further acknowledge that they have entered into this Agreement voluntarily.

15. Applicable Law. This agreement shall be governed by and construed in accordance with the laws of Florida.

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DATED: September 28, 2011.

WELBAUM, GUERNSEY HINGSTON,
GREENLEAF, GREGORY, BLACK,
RUNE & THOMAS, LLP
Attorneys for Plaintiff
901 Ponce de Leon Boulevard
Penthouse Suite
Coral Gables, FL 33134-3009

Telephone: [REDACTED]
Facsimile: [REDACTED]
E-Mail: [REDACTED]

[REDACTED]

(b) Michael Jay Rune II, Esquire
Fla. Bar No. 0086355

FEDERAL DEPOSIT CORPORATION,
as receiver for INDYMAC BANK, FSB

By:

[REDACTED]

(b)(6)

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

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

(b)(6)

**BOYD, RICHARDS, PARKER &
COLONNELLI, P.L.**
Attorneys for Defendant, Genesis Title
Company, LLC
Bank of America Tower
100 S.E. 2nd Street, 36th Floor
Miami, FL 33131

Telephone: [redacted]

Facsimile: [redacted]

E-Mail: [redacted]

[redacted]

By: **Barry Jay Watson, Esquire**
Fla. Bar No. 291511

TORRES & VADILLO, LLP
Attorneys for Defendants, Gustavo E. Mata
and Silvia C. Mata
11402 N.W. 41st Street - Suite 202
Doral, FL 33178

Telephone: [redacted]

Facsimile: [redacted]

E-Mail: [redacted]

By: **Gustavo A. Gutierrez, Esquire**
Fla. Bar No. [redacted]

GENESIS TITLE COMPANY, LLC

[redacted] (b)(6)

GUSTAVO E. MATA

SILVIA C. MATA

BOYD, RICHARDS, PARKER &
COLONNELLI, P.L.
Attorneys for Defendant, Genesis Title
Company, LLC
Bank of America Tower
100 S.E. 2nd Street, 36th Floor
Miami, FL 33131

GENESIS TITLE COMPANY, LLC

By: _____

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

Telephone: [Redacted]

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

Facsimile: [Redacted]

E-Mail: [Redacted]

By: _____
Barry Jay Warsch, Esquire
Fla. Bar No. 291511

TORRES & VADILLO, LLP
Attorneys for Defendants, Gustavo E. Mata
and Silvia C. Mata
11402 N.W. 41st Street - Suite 202
Doral, FL 33178

[Redacted Signature]

(b)(6)

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

Telephone: [Redacted]

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

Facsimile: [Redacted]

(b)(6)

E-Mail: [Redacted]

By: _____
Gustavo A. Gutierrez, Esquire
Fla. Bar No. [Redacted]

~~GUSTAVO E. MATA~~
[Redacted Signature]

(b)(6)

(b)(6)

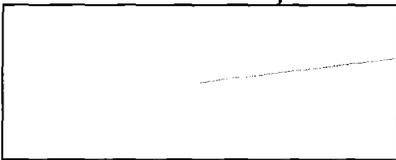
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SILVIA C. MATA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-20841 CV-ALTONAGA/SIMONTON

FEDERAL DEPOSIT CORPORATION, as
receiver for INDYMAC BANK, FSB,



(b)(6)

Plaintiff,

-vs-

GENESIS TITLE COMPANY, LLC,
GUSTAVO E. MATA and SILVIA C.
MATA,

Defendants.

*and its officers, directors,
employees, agents
and insurers,
as well as against
any person or entity
with an indemnity
off (claim) claim
& general
Genesio*

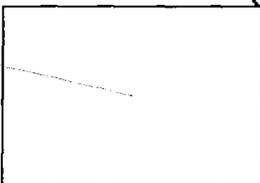
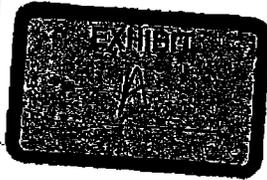
SETTLEMENT AGREEMENT

Plaintiff, FEDERAL DEPOSIT CORPORATION, as receiver for INDYMAC BANK, FSB ("Plaintiff"), and Defendants, GENESIS TITLE COMPANY, LLC ("GENESIS"), GUSTAVO E. MATA and SILVIA C. MATA ("MATAS") agree to settle the above styled cause on the following terms and conditions:

1. GENESIS shall pay to Plaintiff ONE HUNDRED AND EIGHTY THOUSAND AND NO/100 DOLLARS (\$180,000.00), in full satisfaction and accord of all of Plaintiff's claims against GENESIS, known or unknown, asserted or that could have been asserted in the above styled cause or which otherwise are in any way related to the contract, circumstances and matters described in Plaintiff's pending complaint (collectively, "Plaintiff's Asserted Claims Against GENESIS"). Said sum shall be paid within thirty (30) days from the date of the Settlement Agreement ~~to ~~the~~ ~~trust~~ ~~account~~~~ and shall be payable to WELBAUM, GUERNSEY HINGSTON, GREENLEAF, GREGORY, BLACK & RUNE, LLP Trust Account. [Plaintiff's counsel to promptly furnish

*that
file with
SS*

*to be drafted
hereafter*



(b)(6)

GENESIS' counsel with Form W-9.]

2. Contemporaneous with said payment being made and upon clearance of funds:

(a) Plaintiff to furnish to GENESIS an unconditional general release of Plaintiff's Asserted Claims Against GENESIS. Said release shall extend to and release GENESIS' affiliates, parents, subsidiaries, officers, directors, members, managing members, employees, agents, insurers, re-insurers and attorneys as well as to its successors and assigns.

(b) Counsel for the parties shall file a joint motion requesting entry of an order dismissing with prejudice Plaintiff's complaint as to GENESIS and that Plaintiff and GENESIS shall each bear said party's own costs and attorney's fees.

3. MATAS shall pay to Plaintiff TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), in full satisfaction and accord of all of Plaintiff's claims against MATAS, known or unknown, asserted or that could have been asserted in the above styled cause or which otherwise are in any way related to the contract, circumstances and matters described in Plaintiff's pending complaint (collectively, "Plaintiff's Asserted Claims Against MATAS"). Said sum shall be paid as follows: \$5,000.00 by and not later than 3:00 p.m. on Friday, September 30, 2011 and the remaining \$5,000.00 shall be due and payable by and not later than 3:00 p.m. on Wednesday, December 21, 2011; both sums shall be payable to WELBAUM, GUERNSEY HINGSTON, GREENLEAF, GREGORY, BLACK & RUNE, LLP Trust Account. [Plaintiff's counsel to promptly furnish MATAS' counsel with Form W-9.]

4. When Plaintiff has received the entire \$10,000.00 settlement from MATAS and upon clearance of funds:

(a) Plaintiff to furnish to MATAS an unconditional general release of

Plaintiff's Asserted Claims Against MATAS. Said release shall extend to and release MATAS' affiliates, parents, subsidiaries, officers, directors, members, managing members, employees, agents, insurers, re-insurers and attorneys as well as to their successors and assigns.

(b) Counsel for the parties shall file a joint motion requesting entry of an order dismissing with prejudice Plaintiff's complaint as to MATAS and that Plaintiff and MATAS shall each bear said party's own costs and attorney's fees.

(c) Time is of the essence regarding such payment and if for any reason whatever said either of the aforementioned \$5,000.00 payments is not received by Plaintiff's counsel by and not later than the respective due day stated above (as there is no grace period whatever), Plaintiff may immediately thereafter secure (upon the filing of an affidavit of non-payment by Plaintiff's undersigned counsel - with contemporaneous copy to be sent to MATAS' undersigned counsel) by mail and without the need for a hearing, entry of an agreed final judgment for \$100,000.00 (less payment made) and, in addition, an award of a reasonable attorney's fee and costs for services rendered regarding any default that occurs after the execution of this Settlement Agreement.

2. All of the terms and conditions of this Settlement Agreement are totally confidential and neither the parties nor their undersigned attorneys shall hereafter disclose any of the terms to anyone nor shall any copy of this Settlement Agreement be filed in the above styled cause except that (i) this Settlement Agreement may be filed with the court in any action or motion to enforce the terms of this Settlement Agreement (including but not limited to any action for a future breach by any of the parties of the covenant of confidentiality); (ii) the terms of settlement may be disclosed to such accountants as are reasonably necessary incident to each party's filing required (b)(6)

(b)(6)

income tax returns and (iii) this Settlement Agreement may be produced and the terms of settlement may be disclosed if production of the Settlement Agreement and/or disclosure of its terms is compelled by court order, judicial process, or otherwise required by law.

(a) In any action or motion to enforce the terms of this Settlement Agreement (including but not limited to any action for a future breach by any of the parties of the covenant of confidentiality), the prevailing party shall be entitled to an award of reasonable attorney's fees, its costs and any damages.

3. Provisions Regarding Mediation:

(a) Each of the individuals and entities signing this Agreement acknowledges and represents to the other parties and to the Mediator that each party has read this Agreement which is voluntarily entered into and which is intended by each party to be binding and enforceable under Florida law and subject to the provisions of Local Rule 16 (dealing with mediations) of the United States District Court for the Southern District of Florida. Each person executing this Agreement in a representative capacity, i.e., for and on behalf of a corporation, a partnership, or any other entity, further represents to each of the other parties and to the Mediator that said individual is duly authorized to execute this Agreement on behalf of said corporation, partnership or other entity.

(b) The parties acknowledge (i) that this Settlement Agreement was arrived at during the mediation conference conducted by Mediator Samuel L. Heller on September 22, 2011; (ii) that although Mediator Samuel L. Heller prepared this Settlement Agreement, the Mediator performed these services as scrivener for the parties since all of the substantive provisions of this Settlement Agreement were provided to the Mediator by counsel for the parties and by the

parties and the text of this Agreement was carefully reviewed by each counsel and by each of the parties before said Agreement was signed; and (iii) that said Mediator has not offered or furnished legal advice to any of the parties or to their counsel and has acted solely in his capacity as Mediator herein.

(c) The cost of the mediation conference (including, where applicable, Mediator's services in preparation for and following the mediation conference, e.g., review of pleadings and/or mediations summaries furnished by counsel for the parties, drafting of the mediation agreement and phone discussions with counsel regarding completion of same, securing its execution by all of the parties, etc.) is to be paid as follows: one-third has been paid by Plaintiff, one-third has been paid by GENESIS and the remaining one-third has been paid by MATAS

4. This Settlement Agreement may be executed by counsel and the parties in counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same document. This Settlement Agreement may also be executed by way of facsimile or E-Mail transmitted documents in lieu of original signatures and a signed copy produced by facsimile or E-Mail transmission shall be binding upon all parties as an original and fully admissible in any legal proceeding regarding this Settlement Agreement, notwithstanding the best evidence rule or any similar rule. Each of the parties and each counsel executing this Settlement Agreement further acknowledges that said party's signature and said counsel's signature that is affixed to this Settlement Agreement is a valid and effectual electronic signature, as defined by Sec. 668.003(4), Florida Statutes 2009; and that, as provided by Sec. 668.004, Florida Statutes, each of said signatures shall have the same force and effect as a written signature.

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Oliver + Moran to mutually release each other
ADIC represent that it has no power or authority to sanction or punish Genesis or its insured agents or preclude their employment in ADIC insured ports.

(b)(6)

DATED: September 22, 2011.

WELBAUM, GUERNSEY HINGSTON,
GREENLEAF, GREGORY, BLACK &
RUNE, LLP

Attorneys for Plaintiff
901 Ponce de Leon Boulevard
Penthouse Suite
Coral Gables, FL 33134-3009

Telephone [redacted]

Facsimile: [redacted]

E-Mail [redacted]

[redacted signature block]

Michael J. Rune Esquire

Fla. Bar No. [redacted]

FEDERAL DEPOSIT CORPORATION, *as*
receiver for INDYMAC BANK, FSB

By: [redacted signature block]

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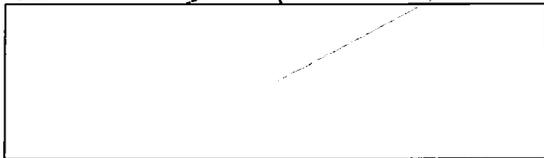
(b)(6)

DATED: September 22, 2011.

(b)(6)

BOYD, RICHARDS, PARKER &
COLONNELLI, P.L.
Attorneys for Defendant, Genesis Title
Company, LLC
Bank of America Tower
100 S.E. 2nd Street, 36th Floor
Miami, FL 33131

GENESIS TITLE COMPANY, LLC



Telephone: [Redacted]
Facsimile: [Redacted]
E-Mail: [Redacted]

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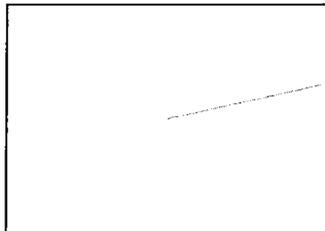
(b)(6)



By: Barry Jay Warsch, Esquire
Fla. Bar No. [Redacted]

(b)(6)

TORRES & VADILLO, LLP
Attorneys for Defendants, Gustavo E. Mata
and Silvia C. Mata
11402 N.W. 41st Street - Suite 202
Doral, FL 33178



(b)(6)

GUSTAVO E. MATA

Telephone: [Redacted]
Facsimile: [Redacted]
E-Mail: [Redacted]

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(b)(6)



By: Gustavo A. Gutierrez, Esquire
Fla. Bar No. [Redacted]



(b)(6)

SILVIA C. MATA

(b)(6)

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into by and between The Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B., ("FDIC" or "Plaintiff"), on the one hand and Fidelity National Title Insurance Company ("Fidelity" or "Defendant") on the other hand. The FDIC and Fidelity are referred to collectively as the "Parties."

RECITALS

A. WHEREAS, the FDIC filed a Complaint against Fidelity and others entitled *Federal Deposit Insurance Corporation as Receiver of IndyMac Bank, F.S.B. v. Fidelity National Title Insurance Company, et. al.*, in United States District Court, Central District of California, Case No. 8:10-cv-00627-DOC(AN) (the "Action").

B. WHEREAS, Fidelity denies all liability for the claims alleged in the Action;

C. WHEREAS, without admitting liability, the Parties desire to resolve the FDIC's claims against Fidelity, including, but not limited to, all issues raised by the FDIC against Fidelity in the Action, and agree as follows:

AGREEMENT AND MUTUAL RELEASE

NOW, THEREFORE, in consideration of the undertakings contained in this agreement, and other good, valuable and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Preamble, Recitals and Exhibits. The foregoing preamble and recitals are true and correct and are integral parts of this agreement.

2. Settlement Payment by Fidelity to FDIC. No later than thirty (30) business days following full execution of this Agreement, Defendant Fidelity shall pay Plaintiff the amount of

Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00). This settlement payment shall be made by wiring the funds to "Mortgage Recovery Law Group Client Trust Account,"

(b)(4)

Account Number: Routing Number: Reference: Fidelity Settlement.

(b)(4)

The Parties agree that timely receipt of the Settlement Payment is an essential term of this agreement, and a condition to the effectiveness of this agreement.

3. Dismissal of the Action. Together with the execution of this agreement, counsel for Plaintiff and Defendant shall execute a Stipulation of Dismissal of the Action against Fidelity, with prejudice. Upon the receipt and clearing of the Settlement Payment, so that good and clear funds in the amount agreed to herein are actually received by Plaintiff, counsel for Plaintiff shall file the executed Stipulation of Dismissal with the Court.

4. Court to Retain Jurisdiction. The Parties agree that the Court shall have continuing jurisdiction to enforce the provisions of this Agreement to the fullest extent permitted by law.

5. Release by Plaintiff. The FDIC hereby releases and forever discharges Fidelity and its current and former employees, agents, sureties, bonding companies, insurers, attorneys, companies, successors, assigns and affiliates, of and from any and all claims, and demands of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims or causes of action set forth in the Action, and/or relating to the facts, occurrences and transactions alleged in the Action.

6. Release by Defendant. Defendant hereby releases and forever discharges Plaintiff and its current and former officers, directors, employees, agents, insurers, attorneys, subsidiaries, predecessors, related companies, parent companies, successors, assigns, and affiliates, of and

from any and all claims, and demands of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims set forth in the Action.

7. Waiver of Civil Code §1542. To the extent applicable to the special releases contained in this Agreement, the parties, and each of them, hereby waive the provisions of California Civil Code §1542. That section provides:

"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.

8. Defendant's Third Party Complaint. The Parties do not intend for either this Agreement or the Stipulation of Dismissal to affect the allegations set forth in the Third Party Complaint filed by Defendant in the Action. Neither this Agreement nor the Stipulation of Dismissal shall release any of the individuals and entities listed in Defendant's Third Party Complaint (KFGI, Inc., Max Kay, Hamid Khorramnezhad, and Amin Razi).

9. No Admission of Liability. Plaintiff acknowledges that this agreement does not constitute an admission by Defendant as to the merits of any claim that the FDIC or its predecessors in interest, including IndyMac, has asserted, or could have asserted, in the Action and that Defendant has denied and continues to deny that he has any liability to Plaintiff as alleged in the Action. Likewise, Defendant acknowledges that this agreement does not constitute an admission by Plaintiff that any asserted claim is or was in any way lacking in merit, and Defendant also acknowledges that this agreement does not constitute an admission by Plaintiff as to the merits of any claim that Defendant has asserted, or could have asserted, in the Action. Nevertheless, Plaintiff and Defendant have concluded that continued litigation would be

expensive and protracted and that it is desirable that the Action be settled fully and finally as between Plaintiff and Defendant in the manner and upon the terms and conditions set forth in this agreement.

10. Representations and Warranties. The Parties represent and warrant to and agree with each other as follows:

- a. Plaintiff and Defendant have received independent legal advice from attorneys of their choice with respect to the advisability of entering into this Agreement and of giving the releases provided herein.
- b. In connection with the execution of this Agreement and the making of the settlement provided for herein, no Party to this Agreement has relied upon any statement, representation or promise of any other Party not expressly contained herein.
- c. This Agreement is fully integrated and contains the entire agreement of the Parties hereto. There are no agreements or understandings between the Parties hereto relating to the matters and releases referred to in this Agreement other than as set forth in this Agreement, and this Agreement supersedes and replaces any and all prior negotiations and agreements between the Parties hereto, whether written or oral.
- d. Plaintiff and Defendant have made such investigation of the facts pertaining to the releases contained herein as they deem necessary.
- e. The terms of this Agreement are contractual and are the result of negotiation among the Parties. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the

role of the Party in drafting and preparation of the Agreement shall not be referred to in order to construe the Agreement against that Party, and that canon of contractual interpretation shall not be applied.

f. This Agreement has been carefully read by each of the Parties and the contents thereof are known and understood by each of the Parties. This Agreement is signed freely by each Party executing it.

g. The Parties have not assigned or transferred any of their claims being released herein.

11. Consideration. The consideration received in connection with this Agreement is fair, adequate and substantial and consists only of the terms set forth in this Agreement.

12. Modifications. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement subscribed by all of the Parties to be charged with such modification.

13. Agreement Binding on Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective officers, directors, joint venturers, partners, employees, agents, servants, heirs, administrators, executors, successors, representatives and assigns.

14. Applicable Law. This Agreement has been negotiated and exchanged in the State of California. As such, this Agreement and all matters relating thereto shall be governed by the laws of the State of California without regard to its principles of conflicts of law. In addition, in the event of any disputes arising between the Parties out of this Agreement, the Parties agree that the exclusive venue in which all disputes shall be resolved shall be by way of an action filed in the United States District Court for the Central District of California.

15. Execution and Delivery Required – Effective Date. This instrument shall not be considered to be the Agreement (defined above) or an enforceable contract, nor shall it create any obligation whatsoever on the part of any or all of the Parties, nor shall it or any of its terms constitute an undertaking by any of the Parties unless and until the date on which counterparts of it have been signed by and exchanged amongst all Parties (via facsimile, e-mail or otherwise) (the "Effective Date"). Until the Effective Date, any Party who may already have signed and exchanged one or more counterparts of this agreement with other Parties shall have the right to revoke such signature. On the Effective Date, this instrument shall become the Agreement and shall become a binding and enforceable contract.

16. 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. Signatures on this Agreement, or any counterpart of this Agreement, transmitted by facsimile machine or electronic mail in .pdf format shall have the same force and effect as original signatures.

17. Construction. Each of the masculine, feminine and neuter genders shall include the others. The singular shall include the plural and vice-versa.

18. Severability. In the event any provision of this Agreement shall be held to be void, voidable or unenforceable, the remaining provisions shall remain in full force and effect.

19. Warranty of Authority. Each Party or attorney whose signature is affixed hereto in a representative capacity represents and warrants that he or she is authorized to execute this agreement on behalf of and to bind the entity on whose behalf his or her signature is affixed and that he or she is acting in the scope of such agency and authority. Each Party specifically

represents and warrants that no signatures other than those made on this Agreement are necessary to bind the Parties to all of the obligations imposed by the Agreement.

20. Attorneys' Fees and Costs. Plaintiff and Defendant each agree to pay their own costs, attorneys' fees and expenses incurred in connection with the Action.

21. Captions and Headings. The captions, paragraph numbers and paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of this agreement, nor in any way affect this Agreement.

22. Notices. Any notice required under this Agreement shall be in writing and shall be sent via both e-mail and either by (i) hand delivery or certified or registered mail, postage prepaid, with return receipt requested, or (ii) fax, with a conformed copy by US Mail, postage prepaid, and with such writing to be addressed to the Parties as follows:

| Person To Receive Notice | Notification Information |
|--------------------------|--|
| Defendant: | Fidelity National Title Insurance Company c/o John Rygh, Esq. 915 Wilshire Boulevard, Suite 2100 Los Angeles, California 90017 Tel. No.: [REDACTED] (b)(4),(b)(6) Email: [REDACTED] (b)(4),(b)(6) |
| With a copy to: | Gregory A. Dawley, Esq. Fidelity National Law Group 915 Wilshire Boulevard, Suite 2100 Los Angeles, California 90017 Tel. No.: [REDACTED] (b)(6) Email: [REDACTED] (b)(6) |
| Plaintiff: | Dana Clausen Mortgage Recovery Law Group, LLP 700 North Brand Boulevard, Suite 830 Los Angeles, California 91203 Tel. No.: [REDACTED] (b)(4),(b)(6) Email: [REDACTED] (b)(4),(b)(6) |

| Person To Receive Notice | Notification Information |
|--------------------------|---|
| With a copy to: | Maurice Wainer Snipper Wainer & Markoff 270 N. Canon Drive, Penthouse Beverly Hills, California 90210 Tel. No.: [REDACTED] Email: [REDACTED] |

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

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

The above addresses may be changed by any Party as to such Party by providing the other Parties notice of any address change in the same manner as is provided above, and which change shall be effective as to any Party upon receipt of written notice from the other Party. In the event that written notice, demand, or request is made as provided in this paragraph, that writing shall be deemed to have been received by the Party to whom it was addressed on the earliest of (i) the date that the notice was hand delivered, (ii) the date the notice was sent via facsimile (so long as a facsimile transmittal confirmation sheet is contemporaneously generated by the facsimile machine from which the transmission occurred), or (iii) three days after properly addressed notice was deposited with the U.S. Postal Service, applicable postage prepaid.

23. Remedies. All Parties shall be entitled to all remedies available at law or in equity for any violation of this Agreement, including, but not limited to the remedy of specific performance.

24. Further Assurances. The Parties shall execute such other documents as may be reasonably necessary to carry out the terms and conditions of this Agreement.

25. Survival. All warranties, representations, covenants, and agreements set forth herein shall survive the Effective Date.

26. Compliance Dates. In the event that any date specified in this Agreement shall be on a Saturday, Sunday, or a nationally-declared holiday, then the date so specified shall be

deemed to be the next business day following such date, and compliance by such business day hereunder shall not be deemed a default by either of the Parties under this Agreement.

27. Waiver. The waiver by one Party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such Party of any other covenant or condition or of any later instance of the previously waived covenant or condition. The waiver by any Parties of the time for performing any act shall not constitute a waiver at the time for performing any other act or an identical act required to be performed at a later time.

28. Jury Trial Waiver. The Parties hereby waive any and all rights that they may otherwise have to a trial by jury in any action, proceeding, claim, counterclaim or third party complaint, whether in contract or tort, at law or in equity, arising out of or in any way related to this Agreement.

29. Entire Agreement. This Agreement contains the complete agreement of the Parties concerning the subjects of this agreement and supersedes all prior drafts of this Agreement and all other prior agreements, promises, acknowledgements, representations and warranties, if any, that may have been made between or among the Parties concerning that subject of this agreement, whether in connection with the negotiation of this agreement or otherwise. This agreement has been the product of negotiation. The Parties have had the opportunity to obtain independent advice from counsel. Prior draft documents were prepared, exchanged and discussed by some or all of the Parties before finally reaching and entering into this agreement. In any number of instances, words used in prior drafts may have been changed or removed from the language ultimately agreed to in this Agreement. In the event of a dispute over the meaning of any of the provisions or requirements of this Agreement, the fact that other words may have

been used or deleted from earlier draft documents or provisions in such draft documents that were modified before being included herein, shall not be used to aid in the construction of the meaning and legal effect of this Agreement. This Agreement may not be modified or changed except by a written instrument executed by all of the Parties and no rights under it may be waived except by a writing signed by the waiving Party. No promises, representations, warranties, agreements or other understandings exist between the parties with respect to the subject matter of this agreement, and this agreement supersedes and discharges any and all prior promises, acknowledgements, representations, warranties, agreements or other understandings that existed or may have existed between the Parties.

(b)(6)

Dated: September 20, 2011

By

JOCK S. DUNCAN
Authorized on behalf of The Federal Deposit
Insurance Corporation, as receiver for IndyMac
Bank F.S.B. (b)(6)

(b)(6)

Dated: September 20, 2011

By

KEVIN M. RAZBAN, Esq.
Assistant Vice President
Claims Counsel
Authorized on behalf of Fidelity National Title
Insurance Company.

APPROVED AS TO FORM:

MORTGAGE RECOVERY LAW GROUP, LLP

(b)(6)

September
Dated: ~~August~~ 20, 2011

[Redacted Signature]

DANA J. CLAUSEN, attorney
for Plaintiff the Federal Deposit Insurance
Corporation, as Receiver for IndyMac Bank,
F.S.B.

FIDELITY NATIONAL LAW GROUP

(b)(6)

September
Dated: ~~August~~ 21, 2011

By [Redacted Signature]

GREGORY A. DAWLEY, attorney
for Defendant Fidelity National Title Insurance
Company

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made and entered into by and between The Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B., (“FDIC” or “Plaintiff”), on the one hand and First American Title Insurance Company (“First American” or “Defendant”) on the other hand. The FDIC and First American are referred to collectively as the “Parties.”

RECITALS

A. WHEREAS, the FDIC filed a Complaint against First American entitled *Federal Deposit Insurance Corporation as Receiver of IndyMac Bank, F.S.B. v. First American Title Insurance Company, et. al.*, in United States District Court, Central District of California, Case No. 8:10-cv-00713-DOC-MLG (the “Action”).

B. WHEREAS, First American has denied the allegations of the Complaint.

C. WHEREAS, the Parties desire to resolve the FDIC’s claims against First American, and agree as follows:

AGREEMENT AND MUTUAL RELEASE

NOW, THEREFORE, in consideration of the undertakings contained in this agreement, and other good, valuable and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Preamble, Recitals and Exhibits. The foregoing preamble and recitals are true and correct and are integral parts of this agreement.

2. Settlement Payment by First American to FDIC. No later than thirty (30) business days following full execution of this Agreement, Defendant First American shall pay Plaintiff the amount of Three Hundred Thousand Dollars and No Cents (\$300,000.00)

("Settlement Payment"). This Settlement Payment may be made by check, made payable to "Mortgage Recovery Law Group Client Trust Account." The Parties agree that timely receipt of the Settlement Payment is an essential term of this agreement, and a condition to the effectiveness of this agreement.

3. Dismissal of the Action. Together with the execution of this agreement, counsel for Plaintiff and Defendant shall execute a Stipulation of Dismissal of the Action against First American, with prejudice. Upon the receipt and clearing of the Settlement Payment, so that good and clear funds in the amount agreed to herein are actually received by Plaintiff, counsel for Plaintiff shall file the executed Stipulation of Dismissal with the Court.

4. Court to Retain Jurisdiction. The Parties agree that the Court shall have continuing jurisdiction to enforce the provisions of this Agreement to the fullest extent permitted by law.

5. Release by Plaintiff. The FDIC hereby releases and forever discharges First American and its current and former employees, agents, sureties, bonding companies, insurers, attorneys, companies, successors, assigns and affiliates, of and from any and all claims, and demands of every kind and nature, in law, equity or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims or causes of action set forth in the Action, except as expressly reserved in Paragraph 6, below.

6. Express Reservations from Release by Plaintiff. Notwithstanding any other provision contained herein, by this agreement, Plaintiff 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, occurrences and transactions alleged in the

Action, (b) any claims brought on behalf of another failed institution or another governmental entity, or (c) any claims relating to the facts, occurrences and transactions alleged in the Action against any other person or entity not released in Paragraph 5, above. This agreement does not waive or release any claim Plaintiff may have relating to or arising from any loan other than the loan at issue in the Action. In addition, this agreement does not purport to waive, nor is it intended to waive, any claims which could be brought by the United States through either the Department of Justice, the United States Attorney's Office, or any other federal department or agency, including any rights, if appropriate, to court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, *et seq.*

7. Release by Defendant. Defendant hereby releases and forever discharges Plaintiff and its current and former officers, directors, employees, agents, insurers, attorneys, subsidiaries, predecessors, related companies, parent companies, successors, assigns, and affiliates, of and from any and all claims, and demands of every kind and nature, in law, equity, or otherwise, known and unknown, suspected and unsuspected, disclosed and undisclosed, for damages actual and consequential, attorneys' fees and costs, past, present and future, arising out of the claims set forth in the Action.

8. Representations and Warranties. The Parties represent and warrant to and agree with each other as follows:

- a. Plaintiff and Defendant have received independent legal advice from attorneys of their choice with respect to the advisability of entering into this Agreement and of giving the releases provided herein.
- b. In connection with the execution of this Agreement and the making of the settlement provided for herein, no Party to this Agreement has relied upon any

statement, representation or promise of any other Party not expressly contained herein.

- c. This Agreement is fully integrated and contains the entire agreement of the Parties hereto. There are no agreements or understandings between the Parties hereto relating to the matters and releases referred to in this Agreement other than as set forth in this Agreement, and this Agreement supersedes and replaces any and all prior negotiations and agreements between the Parties hereto, whether written or oral.
- d. Plaintiff and Defendant have made such investigation of the facts pertaining to the releases contained herein as they deem necessary.
- e. The terms of this Agreement are contractual and are the result of negotiation among the Parties. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the role of the Party in drafting and preparation of the Agreement shall not be referred to in order to construe the Agreement against that Party, and that canon of contractual interpretation shall not be applied.
- f. This Agreement has been carefully read by each of the Parties and the contents thereof are known and understood by each of the Parties. This Agreement is signed freely by each Party executing it.
- g. The Parties have not assigned or transferred any of their claims being released herein.

9. Consideration. The consideration received in connection with this Agreement is fair, adequate and substantial and consists only of the terms set forth in this Agreement.

10. Modifications. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement subscribed by all of the Parties to be charged with such modification.

11. Agreement Binding on Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective officers, directors, joint venturers, partners, employees, agents, servants, heirs, administrators, executors, successors, representatives and assigns.

12. Applicable Law. This Agreement has been negotiated and exchanged in the State of California. As such, this Agreement and all matters relating thereto shall be governed by the laws of the State of California without regard to its principles of conflicts of law. In addition, in the event of any disputes arising between the Parties out of this Agreement, the Parties agree that the exclusive venue in which all disputes shall be resolved shall be by way of an action filed in the United States District Court for the Central District of California.

13. Execution and Delivery Required – Effective Date. This instrument shall not be considered to be the Agreement (defined above) or an enforceable contract, nor shall it create any obligation whatsoever on the part of any or all of the Parties, nor shall it or any of its terms constitute an undertaking by any of the Parties unless and until the date on which counterparts of it have been signed by and exchanged amongst all Parties (via facsimile, e-mail or otherwise) (the “Effective Date”). Until the Effective Date, any Party who may already have signed and exchanged one or more counterparts of this agreement with other Parties shall have the right to revoke such signature. On the Effective Date, this instrument shall become the Agreement and shall become a binding and enforceable contract.

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. Signatures on this Agreement, or any counterpart of this Agreement, transmitted by facsimile machine or electronic mail in .pdf format shall have the same force and effect as original signatures.

15. Construction. Each of the masculine, feminine and neuter genders shall include the others. The singular shall include the plural and vice-versa.

16. Severability. In the event any provision of this Agreement shall be held to be void, voidable or unenforceable, the remaining provisions shall remain in full force and effect.

17. Warranty of Authority. Each Party or attorney whose signature is affixed hereto in a representative capacity represents and warrants that he or she is authorized to execute this agreement on behalf of and to bind the entity on whose behalf his or her signature is affixed and that he or she is acting in the scope of such agency and authority. Each Party specifically represents and warrants that no signatures other than those made on this Agreement are necessary to bind the Parties to all of the obligations imposed by the Agreement.

18. Attorneys' Fees and Costs. Plaintiff and Defendant each agree to pay their own costs, attorneys' fees and expenses incurred in connection with the Action.

19. Captions and Headings. The captions, paragraph numbers and paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of this agreement, nor in any way affect this Agreement.

20. Notices. Any notice required under this Agreement shall be in writing and shall be sent via both e-mail and either by (i) hand delivery or certified or registered mail, postage

prepaid, with return receipt requested, or (ii) fax, with a conformed copy by US Mail, postage prepaid, and with such writing to be addressed to the Parties as follows:

| Person To Receive Notice | Notification Information |
|--------------------------|---|
| Defendant: | Natalie R. Teramoto First American Title Insurance Company Claims Counsel 2 First American Way Santa Ana, California 92707 |
| With a copy to: | L. Allan Songstad, Jr., Esq. Songstad & Randall LLP 2201 Dupont Drive, Suite 100 Irvine, California 92612 Telephone: [REDACTED] (b)(4),(b)(6) Email: [REDACTED] (b)(4),(b)(6) |
| Plaintiff: | Dana Clausen Mortgage Recovery Law Group, LLP 700 North Brand Boulevard, Suite 830 Los Angeles, California 91203 Telephone: [REDACTED] (b)(4),(b)(6) Email: [REDACTED] (b)(4),(b)(6) |
| With a copy to: | Maurice Wainer Snipper Wainer & Markoff 270 N. Canon Drive, Penthouse Beverly Hills, California 90210 Telephone: [REDACTED] (b)(4),(b)(6) Email: [REDACTED] (b)(4),(b)(6) |

The above addresses may be changed by any Party as to such Party by providing the other Parties notice of any address change in the same manner as is provided above, and which change shall be effective as to any Party upon receipt of written notice from the other Party. In the event that written notice, demand, or request is made as provided in this paragraph, that writing shall be deemed to have been received by the Party to whom it was addressed on the earliest of (i) the date that the notice was hand delivered, (ii) the date the notice was sent via facsimile (so long as a facsimile transmittal confirmation sheet is contemporaneously generated by the facsimile

machine from which the transmission occurred), or (iii) three days after properly addressed notice was deposited with the U.S. Postal Service, applicable postage prepaid.

21. Remedies. All Parties shall be entitled to all remedies available at law or in equity for any violation of this Agreement, including, but not limited to the remedy of specific performance.

22. Further Assurances. The Parties shall execute such other documents as may be reasonably necessary to carry out the terms and conditions of this Agreement.

23. Survival. All warranties, representations, covenants, and agreements set forth herein shall survive the Effective Date.

24. Compliance Dates. In the event that any date specified in this Agreement shall be on a Saturday, Sunday, or a nationally-declared holiday, then the date so specified shall be deemed to be the next business day following such date, and compliance by such business day hereunder shall not be deemed a default by either of the Parties under this Agreement.

25. Waiver. The waiver by one Party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such Party of any other covenant or condition or of any later instance of the previously waived covenant or condition. The waiver by any Parties of the time for performing any act shall not constitute a waiver at the time for performing any other act or an identical act required to be performed at a later time.

26. Jury Trial Waiver. The Parties hereby waive any and all rights that they may otherwise have to a trial by jury in any action, proceeding, claim, counterclaim or third party complaint, whether in contract or tort, at law or in equity, arising out of or in any way related to this Agreement.

27. Entire Agreement. This Agreement contains the complete agreement of the Parties concerning the subjects of this agreement and supersedes all prior drafts of this Agreement and all other prior agreements, promises, acknowledgements, representations and warranties, if any, that may have been made between or among the Parties concerning that subject of this agreement, whether in connection with the negotiation of this agreement or otherwise. This agreement has been the product of negotiation. The Parties have had the opportunity to obtain independent advice from counsel. Prior draft documents were prepared, exchanged and discussed by some or all of the Parties before finally reaching and entering into this agreement. In any number of instances, words used in prior drafts may have been changed or removed from the language ultimately agreed to in this Agreement. In the event of a dispute over the meaning of any of the provisions or requirements of this Agreement, the fact that other words may have been used or deleted from earlier draft documents or provisions in such draft documents that were modified before being included herein, shall not be used to aid in the construction of the meaning and legal effect of this Agreement. This Agreement may not be modified or changed except by a written instrument executed by all of the Parties and no rights under it may be waived except by a writing signed by the waiving Party. No promises, representations, warranties, agreements or other understandings exist between the parties with respect to the subject matter of this agreement, and this agreement supersedes and discharges any and all prior promises, acknowledgements, representations, warranties, agreements or other understandings that existed or may have existed between the Parties.

(b)(6)

Dated: September 30, 2011

By:

[Redacted Signature]

RICHARD S. GILL

Authorized on behalf of The Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B.

Dated: September _____, 2011

By: _____
NATALIE R. TERAMOTO
Authorized on behalf of First American Title
Insurance Company.

APPROVED AS TO FORM:

MORTGAGE RECOVERY LAW GROUP, LLP

(b)(6)

Dated: September 30, 2011

By: _____
DANIEL CLAUSEN, attorney
for Plaintiff the Federal Deposit Insurance
Corporation, as Receiver for IndyMac Bank,
F.S.B.

SONGSTAD & RANDALL LLP

Dated: September _____, 2011

By: _____
L. Allan Songstad, Jr., attorney
for Defendant First American Title Insurance
Company

(b)(6)

Dated: September 21, 2011

[Redacted Signature]

NATALIE R. TERAMOTO
Authorized on behalf of First American Title
Insurance Company.

APPROVED AS TO FORM:

MORTGAGE RECOVERY LAW GROUP, LLP

Dated: September _____, 2011

By: _____
DANA J. CLAUSEN, attorney
for Plaintiff the Federal Deposit Insurance
Corporation, as Receiver for IndyMac Bank,
F.S.B.

SONGSTAD & RANDALL LLP

(b)(6)

Dated: September 30, 2011

By: _____
L. Allan Songstad, Jr., attorney
for Defendant First American Title Insurance
Company

(b)(6)

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 14 day of December 2011 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B. ("FDIC-R") and SEAN KESHISHYAN ("KESHISHYAN"). The FDIC-R and KESHISHYAN may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 On or about April 5, 2011, the FDIC-R filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC BANK, F.S.B. v. MIRMAX HOUSING & FINANCE, INC., a California corporation; RITA MIRZAIAN, an individual, ARUTYUN KESHISHYAN, an individual; SEAN KESHISHYAN, an individual; and DOES 1 THROUGH 10, inclusive, in the United States District Court for the Central District of California Case No. CV11-02875 ODW (PLAx) (hereinafter "Action").

1.2 The Parties desire and have agreed to settle all claims between the FDIC-R and KESHISHYAN. By entering into this Settlement Agreement, the parties are not admitting the allegations as set forth in the Complaint. This settlement is of claims which are denied and contested and nothing contained herein shall be construed as an admission by any Party hereto of any liability of any kind to any other Party. Each of the Parties hereto denies any liability in connection with any claim and intends hereby solely to avoid the annoyance and expense of additional litigation.

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 the FDIC-R. Payment of Eighty Thousand Dollars and no/cents (\$80,000.00) (the "Settlement Funds") shall be paid on behalf of KESHISHYAN to the FDIC-R. The Settlement Funds shall be paid on or before March 14, 2012. The Settlement Funds shall be made by wire transfer made payable to: "Mortgage Recovery Law Group Trust Account," Account Number [redacted] Routing Number: [redacted] Reference: Mirmax/Keshishyan Settlement.

(b)(4)

(b)(4)

2.3 In the event KESHISHYAN defaults by failing to make a timely payment to the FDIC-R as set forth in paragraph 2.2 above, the FDIC-R shall give written notice

(b)(4),(b)(6) of the default to KESHISHYAN via e-mail or overnight mail to his attorneys of record as follows: Akop Baltayan, Esq., 1201 N. Pacific Avenue, Suite 204, Glendale, California 91202; telephone [REDACTED] e-mail [REDACTED] KESHISHYAN shall have ten (10) days after written notice of default is sent to Mr. Baltayan to cure the default. If KESHISHYAN fails to cure the default within ten (10) days, the settlement may be voided at the FDIC-R's sole option and the matter may proceed to trial as scheduled.

(b)(4),(b)(6) 2.4 Within ten (10) business days of the FDIC-R's receipt of the Settlement Funds as set forth in paragraph 2.2, the FDIC-R's counsel shall file a request for dismissal of KESHISHYAN only, from the Action with prejudice.

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

3. RELEASE

3.1 **Known and Unknown Claims.** The FDIC-R and KESHISHYAN 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) arising from or in conjunction with the Subject Property only.

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* or its Federal law equivalent as it relates to the Action. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3.3 The Parties understand and acknowledge that the significance and consequence of its waiver of *California Civil Code §1542* is that even if either Party should eventually suffer additional damages arising from or in conjunction with this Action relating to the Subject Property, that Party will not be able to make any claim against any other Party for those damages. Furthermore, each Party acknowledges that they consciously intend these consequences even as to claims for damages that may exist as of the date of this release arising from or in conjunction with this Action relating to the Subject Property, 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, the Parties each hereby fully, finally, and forever release and discharge the other Parties, Anna Keshishyan, Joseph Kokikian, Silva Kokikian and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, to any damages, loss, or liability arising from, in conjunction with, this Action relating to the Subject Property. Notwithstanding any other provision of this Settlement Agreement to the contrary, the releases included in this paragraph 3.4 do not release Mirmax Housing & Finance, Inc., Rita Mirzajan, and Arutyun Keshishyan, and it is understood and agreed that the release by the FDIC-R in favor of released parties in this Agreement includes but is not limited to, all conduct related to the origination, servicing, payoff, purchase or sale of the at issue residential Mortgage Loan, the short sale, the subsequent sale of the Subject Property, and any and all other conduct or transactions known or unknown regarding the Subject Property and Mortgage Loan that were carried out by the released parties in this Agreement which directly or indirectly involved or affected IndyMac Bank, its successors or FDIC, to the full extent of IndyMac Bank's rights or the rights retained by the FDIC or IndyMac Bank's successors as a consequence of the failure of IndyMac Bank.

3.5 Notwithstanding any other provision of this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against KESHISHYAN arising out of existing or failed financial institutions other than IndyMac.

3.6 Notwithstanding any other provision, this Settlement Agreement does not purport to waive, or intend to waive, any criminal claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district

4. MISCELLANEOUS

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

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

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

4.4 Governing Law. The Parties agree to submit to the 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.

4.5 Attorneys Fees and Costs.

4.6 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.

4.7 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.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understood the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and 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.

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

4.10 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.

4.11 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.

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

4.13 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement, 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.

4.14 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 Settlement 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: February 24, 2012
APPROVED AS TO FORM

AKOP BALTAYAN

By:

[Redacted Signature]

(b)(6)

Akop Baltayan

Attorneys for Defendants SEAN KESHISHYAN

DATED: February 24, 2012

SEAN KESHISHYAN

By

[Redacted Signature]

(b)(6)

DATED: February 23, 2012
APPROVED AS TO FORM

SNIPPER WAINER & MARKOFF

(b)
(6)

(b)(6)

By:

Maurice Wainer

Attorneys for Plaintiff FEDERAL DEPOSIT
INSURANCE CORPORATION, as Receiver for
INDYMAC BANK, F.S.B.

DATED: February 14, 2012

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

By:

Signature

(b)(6)

Richard S. Gill, Counsel
Type/Print Name and Title

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into and made effective as of the 14 day of December 2011 ("Effective Date"), by and between FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B. ("FDIC-R") and MIRMAX HOUSING & FINANCE, RITA MIRZAIAN, and ARUTYUN KESHISHYAN (collectively "MIRMAX"). The FDIC and MIRMAX may hereinafter be referred to individually as a "Party" or collectively as the "Parties".

1. RECITALS

1.1 On or about April 5, 2011, the FDIC-R filed a lawsuit entitled FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC BANK, F.S.B. v. MIRMAX HOUSING & FINANCE, INC., a California corporation; RITA MIRZAIAN, an individual, ARUTYUN KESHISHYAN, an individual; SEAN KESHISHYAN, an individual; and DOES 1 THROUGH 10, inclusive, in the United States District Court for the Central District of California Case No. CV11-02875 ODW (PLAx) (hereinafter "Action").

1.2 The Parties desire and have agreed to settle all claims between the FDIC-R and MIRMAX relating to the Subject Property located at 6229 Riverton Avenue, North Hollywood, California (See Legal Description of Subject Property attached hereby and made part hereof). By entering into this Settlement Agreement, the parties are not admitting the allegations as set forth in the Complaint. This settlement is of claims which are denied and contested and nothing contained herein shall be construed as an admission by any Party hereto of any liability of any kind to any other Party. Each of the Parties hereto denies any liability in connection with any claim and solely intends hereby to avoid the annoyance and expense of additional litigation.

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 the FDIC-R. Payment of Forty Thousand Dollars and no/cents (\$40,000.00) (the "Settlement Funds") shall be paid on behalf of MIRMAX to the FDIC-R. The Settlement Funds shall be paid on or before March 14, 2012. The Settlement Funds shall be made by wire transfer made payable to: "Mortgage Recovery Law Group Trust Account," Account Number [redacted] Routing Number: [redacted] (b)(4)

Reference: Mirmax/Keshishyan Settlement.

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

2.3 In the event MIRMAX defaults by failing to make a timely payment to the FDIC-R as set forth in paragraph 2.2 above, the FDIC-R shall give written notice of the default to MIRMAX via e-mail and overnight mail to their attorneys of record as follows: Gary G. Barsegian, Esq., 2001 West Magnolia Boulevard, Suite A, Burbank, California 91506; telephone [redacted] facsimile [redacted] e-mail [redacted] and Jina A. Nam, Esq., 18000 Studebaker Road, Suite 700, Cerritos, California 90703; telephone [redacted] facsimile [redacted]; e-mail [redacted] MIRMAX shall have ten (10) days after written notice of default is sent to Mr. Barsegian and Ms. Nam to cure the default. If MIRMAX fails to cure the default within ten (10) days, the settlement may be voided at the FDIC-R's sole option and the matter may proceed to trial as scheduled. (b)(4),(b)(6)

2.4 Within ten (10) business days of the FDIC-R's receipt of the Settlement Funds as set forth in paragraph 2.2, the FDIC-R's counsel shall file a request for dismissal of MIRMAX only, from the Action with prejudice.

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

3. **RELEASE**

3.1 **Known and Unknown Claims.** The FDIC-R and MIRMAX 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) arising from or in conjunction with the Subject Property only.

3.2 The Parties hereby expressly waive application of *California Civil Code §1542* as it relates to the Action. The Parties certify that they have read and understood the following provisions of *California Civil Code §1542* which states in pertinent part as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

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

the Subject Property, 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, the Parties each hereby fully, finally, and forever release and discharge the other Parties, and any and all of its respective, employees, brokers, investors, members, partners, joint venturers, independent contractors, attorneys, accountants, insurers, agents, investors, representatives, officers, directors, and any corporation, partnership or limited liability company which was or is at any time the parent or wholly owned subsidiary of such entity, and any such corporation's, partnership's or limited liability company's officers, directors, employees and/or agents, or any corporation, partnership or limited liability company which was or is an affiliate of such entity by virtue of common ownership or control, and any such corporation's, partnership's or limited liability company's, officers, directors, employees and/or agents of and from any and all actions, causes of action, claims, demands, damages, debts, losses, costs, expenses, attorney fees or other liabilities of every kind and nature whatsoever, whether legal or equitable and whether known or unknown, arising out of, resulting from, or relating to, in any manner, to any damages, loss, or liability arising from, in conjunction with, this Action relating to the Subject Property . Notwithstanding any other provision of this Settlement Agreement to the contrary, the releases included in this paragraph 3.4 do not release Sean Keshishyan, and it is understood and agreed that the release by the FDIC-R in favor of Mirmax is limited to its conduct related to the origination or servicing of the at issue residential mortgage loan, the short sale, the subsequent resale of the Subject Property, and any and all other conduct or transactions known and unknown regarding the Subject Property that were carried out by Mirmax which directly or indirectly involved or affected IndyMac Bank, to the full extent of IndyMac Bank's rights or the rights retained by the FDIC as a consequence of the failure of IndyMac Bank

Notwithstanding any other provision of this Settlement Agreement, the FDIC-R does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed any claims against MIRMAX arising out of existing or failed financial institutions other than IndyMac.

3.6 Notwithstanding any other provision, this Settlement Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district.

4. MISCELLANEOUS

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

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

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

4.4 Governing Law. The Parties agree to submit to the 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.

4.5 Attorneys Fees and Costs. Should any action be commenced to enforce, interpret, or seek damages, injunctive relief, or specific performance for violation of this Settlement Agreement, the prevailing party shall, in addition to any other available relief, be entitled to an award of reasonable attorney's fees and litigation expenses incurred in the prosecution or defense of the action, including any appeal.

4.6 Severability. The Parties hereto agree that if any provision of this Settlement Agreement 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.

4.7 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.

4.8 Review and Understanding. The Parties have entered into this Settlement Agreement voluntarily, having fully read and fully understood the meaning and effect of all of its terms and provisions, and fully understanding its and their costs and risks. Each of the Parties has consulted with legal counsel concerning this Settlement Agreement and 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.

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

4.10 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.

4.11 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.

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

4.13 Subsequent Agreements. The Parties agree that, upon the reasonable request of the other Party, they shall execute, acknowledge, and deliver any additional instruments or documents that may reasonably be required to carry out the intentions of this Settlement Agreement, 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.

4.14 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 Settlement 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: February 15, 2012
APPROVED AS TO FORM

LAW OFFICES OF GARY BARSEGIAN

(b)(6)

By



Gary G. Barsegian

Attorneys for Defendants MIRMAX HOUSING &
FINANCE, INC. and RITA MIRZAIAN

DATED: February 15, 2012

MIRMAX HOUSING & FINANCE, INC.

By:

[Redacted Signature]

(b)(6)

Signature

Rita Mirzaian, President
Type/Print Name and Title

DATED: February 15, 2012

RITA MIRZAIAN

By:

[Redacted Signature]

(b)(6)

Signature

DATED: February 9, 2012
APPROVED AS TO FORM

LAW OFFICE OF JINA A. NAM & ASSOCIATES

By:

[Redacted Signature]

(b)(6) Jina A. Nam

Attorneys for Defendants ARUTYUN KESHISHYAN

DATED: February 9, 2012

ARUTYUN KESHISHYAN

By:

[Redacted Signature]

(b)(6)

(b)(6)

Signature

By: _____
Signature

Type/Print Name and Title

DATED: December ____, 2011

RITA MIRZAIAN

By: _____
Signature

DATED: December ____, 2011
APPROVED AS TO FORM

LAW OFFICE OF JINA A. NAM & ASSOCIATES

By: _____
Jina A. Nam
Attorneys for Defendants ARUTYUN KESHISHYAN

DATED: December ____, 2011

ARUTYUN KESHISHYAN

By: _____
Signature

~~DATED: December ____, 2011~~
FEB. 23, 2012
APPROVED AS TO FORM

SNIPPER WAINER & MARKOFF

By: _____
Mauride Wainer

(b)(6)

Attorneys for Plaintiff FEDERAL DEPOSIT
INSURANCE CORPORATION, as Receiver for
INDYMAC BANK, F.S.B.

DATED: December 14, 2011

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

By:

[Redacted Signature Box]

(b)(6)

Signature

Richard S. Gilly, Counsel
Type/Print Name and Title