

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made by, between, and among the following undersigned parties:

Federal Deposit Insurance Corporation as Receiver for Washington Mutual Bank (“FDIC-R”) and Trustworthy Mortgage Corporation (“TMC”) (individually, FDIC-R and TMC may be referred to herein as “Party” and collectively as the “Parties”). This Agreement shall be effective as of the date last executed by any Party (“Effective Date”).

### RECITALS

WHEREAS:

Prior to September 25, 2008, Washington Mutual Bank (“WaMu”) was a depository institution organized and existing under the laws of the United States;

On September 25, 2008, the Office of Thrift Supervision closed the Bank and pursuant to 12 U.S.C. § 1821(c), Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), FDIC-R succeeded to all rights, titles, powers and privileges of WaMu, including those with respect to its assets;

Among the assets to which FDIC-R succeeded were all of WaMu’s claims, demands, and causes of action against mortgage brokers;

On May 31, 2022, FDIC-R filed a complaint for money damages against TMC. Those claims for damages are now pending in the United States District Court for the Central District of California in *FDIC-R v. TMC*, No. 8:22-cv-1075 (“Action”). TMC has denied liability in the Action; and

The undersigned Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty and expense of further litigation;

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is

hereby acknowledged, the undersigned Parties agree, each with the other, as follows:

**SECTION I: Payment to FDIC-R**

A. As an essential covenant and condition to this Agreement, TMC shall pay FDIC-R the sum of Four Hundred Thousand Dollars (\$400,000.00) (“the Settlement Payment”) in the following installments:

1. Ninety-Six Thousand Dollars (\$96,000.00) payable in 12 monthly installments of Eight Thousand Dollars (\$8,000.00) per month, due on the first of each month (or, where the first of the month falls on a weekend or federal holiday, on the next business day), commencing on July 1, 2023;
2. One Hundred Twenty Thousand Dollars (\$120,000.00) payable in 12 monthly installments of Ten Thousand Dollars (\$10,000.00) per month, due on the first of each month (or, where the first of the month falls on a weekend or federal holiday, on the next business day), commencing on July 1, 2024;
3. One Hundred Forty-Four Thousand Dollars (\$144,000.00) payable in 12 monthly installments of Twelve Thousand Dollars (\$12,000.00) per month, due on the first of each month (or, where the first of the month falls on a weekend or federal holiday, on the next business day), commencing on July 1, 2025; and
4. Forty Thousand Dollars (\$40,000) payable on July 1, 2026.

The Settlement Payment shall constitute a debt due and owing to FDIC-R, an instrumentality, agency and/or other entity of the United States, on the Effective Date. The debt shall be discharged by payment in full to FDIC-R.

B. TMC shall deliver each installment to FDIC-R by electronic funds transfer pursuant to written instructions including a tax identification number to

be provided by FDIC-R, contemporaneous with signing the Agreement.

C. If FDIC-R does not receive the installment in full on or before its due date, then TMC shall be in default of its payment obligations ("Default"). Upon Default, FDIC-R may declare the entire unpaid portion of the Settlement Payment immediately due and payable, and interest shall accrue thereon at the rate of five percent (5%) per annum or the rate calculated in accordance with 26 U.S.C. § 6621(a)(2), whichever rate is higher ("Default Interest Rate"), on the unpaid total until paid in full, and FDIC-R, in its sole discretion, shall have the right to:

1. Waive the Default and extend the period of time for the payment of any installment in writing, including interest at the Default Interest Rate accruing from the date determined by subsection A above;
2. Enforce this Agreement, in which case TMC agrees to exclusive jurisdiction and venue in United States District Court in the Central District of California;
3. Enforce the Stipulation for Entry of Judgment pursuant to Section I.D., below; and/or
4. Seek any other relief available to it in law or equity.

Any decision by FDIC-R to extend the time, and any extension of time, under Section I.C.1 for delivery of any installment or any decision by FDIC-R to accept a portion of the Settlement Payment, and any acceptance of a portion of the Settlement Payment, shall not prejudice FDIC-R's rights to take any of the actions set forth in Section I.C.1 through I.C.4 at any time prior to receipt of Settlement Payment (including all accrued interest) in full.

D. Simultaneously with the full execution of this Agreement by all Parties, the Parties agree to execute the Stipulation for Entry of Judgment for the full amount of the Settlement Payment. If TMC defaults on any installment, FDIC-

R may seek to enforce the Stipulation for Entry of Judgment in the United States District Court for the Central District of California on an *ex parte* basis, subject to the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Central District of California; provided, however, that prior to seeking to enforce the Stipulation for Entry of Judgment, FDIC-R shall provide TMC with notice of a default of a payment due under the Settlement Payment and allow TMC a ten (10) day opportunity to cure the default. Notice of default is required solely to enforce the Stipulation for Entry of Judgment and shall not otherwise impact any of FDIC-R's rights and/or remedies under this Agreement in any way. If any portions of the Settlement Payment are received prior to default, FDIC-R shall file a Notice of Partial Satisfaction of Judgment concurrently with the Stipulation for Entry of Judgment, to set forth the amount of the Settlement Payment already paid. FDIC-R shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with enforcing the Stipulation for Entry of Judgment.

## **SECTION II: Stipulation and Dismissal**

Within ten (10) business days after the latter of 1) full execution of this Agreement by all of the Parties and 2) receipt of the initial installment, FDIC-R shall file a stipulation of dismissal and joint motion for order of dismissal retaining jurisdiction pursuant to Federal Rule of Civil Procedure 41, executed by the attorneys for all Parties hereto, in the form attached as Exhibit A.

## **SECTION III: Releases**

### **A. FDIC-R's Releases.**

Upon receipt of the Settlement Payment in full and except as provided in Section III.C., FDIC-R, for itself and its successors and assigns, hereby releases and discharges TMC and its respective parents, subsidiaries, and affiliates, and their respective officers, agents, representatives, successors, and assigns from any and all

claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to FDIC-R, that arise from or relate to TMC's mortgage broker activities for WaMu, including without limitation the claims alleged in the Action.

B. TMC's Reciprocal Release.

Effective simultaneously with the release granted in Section III.A. above, TMC and its respective parents, subsidiaries, and affiliates, and their respective successors and assigns hereby releases and discharges FDIC-R, and its employees, officers, directors, representatives, attorneys, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to TMC's mortgage broker activities for WaMu, including without limitation the claims alleged in the Action.

C. Exceptions from Releases by FDIC-R.

1. Notwithstanding any other provision of this Agreement, FDIC, in any capacity, does not release, and expressly preserves fully and to the same extent as if this Agreement had not been executed, any claims or causes of action:
  - a. Against TMC or any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note or indebtedness payable or owed by them to FDIC-R, WaMu, other financial institutions, or any other person or entity, including without limitation any such claims acquired by FDIC-R as successor in interest to WaMu or any person or entity other than WaMu;
  - b. by FDIC in any capacity other than as Receiver for WaMu; and
  - c. Against any person or entity not expressly released by

FDIC-R in this Agreement.

2. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing, or compromising the jurisdiction and authority of Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement or other proceedings seeking removal, prohibition, or any other relief it is authorized to seek pursuant to its supervisory or regulatory authority against any person or entity.
3. Notwithstanding any other provision of this Agreement, this Agreement shall not be construed or interpreted as waiving, or intending to waive, any claims that could be brought by the United States or any department, agency or instrumentality thereof (other than FDIC-R), including, but not limited to, through the United States Department of Justice or any United States Attorney's Office.

#### **SECTION V: Representations and Acknowledgements**

A. Authorized Signatories. All of the undersigned persons represent and warrant that they are Parties hereto or are authorized to sign this Agreement on behalf of the respective Party, 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, trustees, administrators, representatives, successors and assigns.

B. Advice of Counsel. Each Party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this

Agreement, and that this Agreement has been explained to that Party by its counsel.

#### **SECTION VI: Reasonable Cooperation**

The Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing, or causing their agents and attorneys to do, whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to conclude the Action and to otherwise perform the terms of this Agreement.

#### **SECTION VII: Other Matters**

A. No Admission of Liability. The Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims and defenses, that this Agreement is not an admission or evidence of liability or infirmity by any of them regarding any claim or defense, and that the Agreement shall not be offered or received in evidence by or against any Party except to enforce its terms.

B. Counterparts and Digital Signatures. This Agreement may be executed digitally by DocuSign or similar services which use public key cryptography or by hand, in any number of counterparts, and delivered electronically or physically, each original or electronic copy thereof will be deemed an original, and all of which when taken together constitute one and the same Agreement.

C. Choice of Law/Jurisdiction. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of California. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute. All Parties hereto submit to the personal jurisdiction of the

United States District Court for the Central District of California for purposes of implementing and enforcing the settlement embodied in this Agreement.

D. Notices. Any notices required hereunder shall be sent by nationally recognized overnight delivery service (e.g. FedEx or UPS), and by email, to the following:

If to FDIC-R:           Stuart Tonkinson  
Federal Deposit Insurance Corp.  
3501 Fairfax Drive  
Arlington, Virginia 22226  
Email: jtonkinson@fdic.gov  
(214) 673-7549

If to TMC:               Aaron Sun  
Manager  
Trustworthy Mortgage Corp.  
1964 Gallows Road  
Suite 350  
Vienna, Virginia 22182  
Email: aaron@trustworthyloan.com  
(703) 827-0899

E. Entire Agreement and Amendments. This Agreement, including exhibits, constitutes the entire agreement and understanding between and among the Parties concerning the matters set forth herein and supersedes any prior agreements or understandings. This Agreement may not be amended or modified, nor may any of its provisions be waived, except in writing signed by the Parties bound thereby, or by their respective authorized attorney(s), or other representative(s).

F. Titles and Captions. All section titles and captions contained in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.



G. No Confidentiality. The Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to Federal Deposit Insurance Corporation's applicable policies, procedures, and other legal requirements.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
WASHINGTON MUTUAL BANK

Date: 6/13/23

BY: **b6**  
TITLE: \_\_\_\_\_  
PRINT NAME: J.S. Tonkinson

Date: \_\_\_\_\_

TRUSTWORTHY MORTGAGE CORPORATION

BY: \_\_\_\_\_  
TITLE: Manager  
PRINT NAME: Aaron Sun

G. No Confidentiality. The Parties acknowledge that this Agreement shall not be confidential and will be disclosed pursuant to Federal Deposit Insurance Corporation's applicable policies, procedures, and other legal requirements.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
WASHINGTON MUTUAL BANK

Date: 6/13/23

BY: **b6**  
TITLE: **b6**  
PRINT NAME: J.S. Tonkinson

Date: 6/26/23

TRU **b6** CORPORATION  
BY: **b6**  
TITLE: **b6**  
PRINT NAME: Aaron Sun

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EXHIBIT A

**MORTGAGE RECOVERY LAW GROUP, LLP**

PAUL A. LEVIN (State Bar No. 229077)

LAUREN M. GIBBS (State Bar No. 251569)

550 North Brand Boulevard, Suite 1100

Glendale, California 91203

Telephone: (818) 630-7900 Facsimile: (818) 630-7920

e-mail: plevin@themrlg.com, lgibbs@themrlg.com

Attorneys for Plaintiff Federal Deposit  
Insurance Corporation as Receiver  
for Washington Mutual Bank

**FEDERAL DEPOSIT INSURANCE  
CORPORATION**

STUART TONKINSON

3501 Fairfax Drive

Arlington, VA 22226

Telephone: (7214) 673-7549

e-mail: jtonkinson@fdic.gov

Co-Counsel for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
WASHINGTON MUTUAL BANK,

Plaintiff,

vs.

TRUSTWORTHY MORTGAGE  
CORPORATION,

Defendant.

Case No. 8:22-cv-1075-JWH-JDE

**STIPULATION AND JOINT MOTION TO  
DISMISS WITHOUT PREJUDICE  
PURSUANT TO FED.R. CIV.P. 41 WITH  
RETAINED JURISDICTION**

1 Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff Federal  
2 Deposit Insurance Corporation as Receiver for Washington Mutual Bank  
3 and Defendant Trustworthy Mortgage Corporation agree to and jointly  
4 move for entry of an order (1) dismissing this case without prejudice  
5 pursuant to the Settlement Agreement attached to this stipulation, (2)  
6 incorporating this stipulation and the attached Settlement Agreement  
7 into the dismissal order, and (3) retaining the Court's jurisdiction to  
8 enforce the terms of the Settlement Agreement. This dismissal without  
9 prejudice by the parties is conditioned upon the court agreeing to retain  
10 jurisdiction over the Settlement Agreement.

11 For the aforementioned reasons, this case is **DISMISSED** in  
12 accordance with the parties' stipulated settlement agreement, with the  
13 Court retaining jurisdiction over this case for the purpose of enforcing  
14 the terms of the attached Settlement Agreement, which is incorporated  
15 into this Order and each party to bear its/their own costs and attorneys'  
16 fees. If reopening of the action to enforce settlement becomes necessary,  
17 it shall be reopened as though it had never been closed.

18 **It is SO ORDERED.**

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20 \_\_\_\_\_  
U.S. District Judge

21 WE SO MOVE

22 WE SO MOVE

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Counsel for Plaintiff

25 \_\_\_\_\_  
Counsel for Defendant

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**EXHIBIT B**

**MORTGAGE RECOVERY LAW GROUP, LLP**

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LAUREN M. GIBBS (State Bar No. 251569)

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Glendale, California 91203

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Attorneys for Plaintiff Federal Deposit  
Insurance Corporation as Receiver  
for Washington Mutual Bank

**FEDERAL DEPOSIT INSURANCE  
CORPORATION**

STUART TONKINSON

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Arlington, VA 22226

Telephone: (7214) 673-7549

e-mail: jtonkinson@fdic.gov

Co-Counsel for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER FOR  
WASHINGTON MUTUAL BANK,

Plaintiff,

vs.

TRUSTWORTHY MORTGAGE  
CORPORATION,

Defendant.

Case No. 8:22-cv-1075-JWH-JDE

**STIPULATION FOR ENTRY OF  
JUDGMENT**

STIPULATION FOR ENTRY OF JUDGMENT

1           **1. PARTIES**

2           This Stipulation for Entry of Judgment (“Stipulation”) is entered  
3 into by and between plaintiff Federal Deposit Insurance Corporation as  
4 Receiver for Washington Mutual Bank (“FDIC-R”) and defendant  
5 Trustworthy Mortgage Corporation. (“TMC”). The persons and entities  
6 entering into this Stipulation are at times referred to individually as a  
7 “Party” and collectively as the “Parties.”

8           **2. RECITALS:**

9           The Parties enter into this Stipulation with reference to and in  
10 acknowledgment of the following facts:

11           2.1 On May 31, 2022, FDIC-R filed a complaint in the  
12 United States District Court, Central District of California,  
13 Case No. 8:22-cv-1075 (the "Action"), alleging certain claims  
14 against TMC.

15           2.2 Subsequent to the filing of the Action, the parties  
16 entered into a Settlement Agreement contemplating entry of  
17 judgment on the terms stated herein, upon the satisfaction of  
18 certain conditions.

19           2.3 The conditions for entry of judgment set forth in the  
20 Settlement Agreement have been satisfied.

21           **3. STIPULATED JUDGMENT.**

22           3.1 TMC stipulates to the entry of judgment in the sum of  
23 Four Hundred Thousand Dollars (\$400,000.00) in favor of  
24 FDIC-R.

25           3.2 Any amounts paid by TMC to FDIC-R under the  
26 Settlement Agreement shall be set forth in a Notice of Partial  
27

1 Satisfaction of Judgment, to be filed concurrently herewith by  
2 FDIC-R.

3 3.3 Interest shall accrue at the legal rate of 10 percent per  
4 annum from the date of entry of judgment.

5 3.4 FDIC-R shall be entitled to recover its reasonable  
6 attorneys' fees incurred in connection with the Action.

7 **5. ENFORCEMENT**

8 The United States District Court for the Central District of  
9 California, shall retain jurisdiction after entry of the Stipulated  
10 Judgment to hear and determine all matters related to this action and to  
11 enforce this Stipulation.

12 **7. UNDERSTANDING OF TERMS**

13 The parties represent that they have read this Stipulation, that its  
14 terms have been fully explained to them by their attorneys, and that  
15 they understand and agree with its terms.

16 **8. AUTHORITY TO ENTER INTO STIPULATION.**

17 Each signatory to this Stipulation represents that he or she is fully  
18 authorized by the party he or she represents to enter into this  
19 Stipulation, to execute it on behalf of the party represented, and to  
20 legally bind that party.

21 **9. EXECUTION IN COUNTERPARTS.**

22 This Stipulation may be executed in counterparts, each of which  
23 shall be deemed an original. Said counterparts shall constitute but one  
24 and the same document, and when a copy is signed by an authorized  
25 representative of each party, the Stipulation shall be effective as if a  
26 single document were signed by all parties.

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Counsel for Plaintiff

Date: \_\_\_\_\_

\_\_\_\_\_  
Counsel for Defendant

Date: \_\_\_\_\_