

No. 2007-08040

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

IN THE DISTRICT COURT

Plaintiffs,

v.

333RD JUDICIAL DISTRICT

Ticor Title Insurance Company; AmeriPoint
Title Houston; Raul Ramos; Boehck
Mortgage Company; Michael A. Moten;
Charles R. Davis; James B. Banks;
B Interests, Inc. d/b/a First Houston
Appraisal; Denise G. Bradford; Telron C.
Bradford; Kelli L. Zintgraff a/k/a Kelli L.
Aikin; Ryan E. Zintgraff a/ka Ryan E. Aikin;
Steven Bowen; Diane C. Fitzpatrick d/b/a
Fitzpatrick & Associates and DC Consultants
Builders, Inc.; Ron Wilson a/k/a Ronnie
Wilson; Tina Wilson; Curley Johnson; and
Michael Levitin.

HARRIS COUNTY, TEXAS

Defendants.

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Settlement Agreement") is
entered into on its date of execution by:

"Claimant": FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER
FOR INDYMAC FEDERAL BANK, FSB

"Defendants": JAMES B. BANKS; B INTERESTS, INC. D/B/A FIRST HOUSTON
APPRAISAL

RECITALS

A. Defendants performed an appraisal of property located at 18952 Harbor Side Blvd.,
Montgomery, Texas 77356 (the "APPRAISAL").

B. IndyMac Bank, FSB received the APPRAISAL when it made two loans to a
borrower to purchase the property located at 18952 Harbor Side Blvd., Montgomery, Texas 77356.

C. Disputes arose between IndyMac Bank, FSB and Defendants regarding the APPRAISAL and IndyMac Bank, FSB filed the above-entitled lawsuit.

D. IndyMac Bank, FSB also filed a complaint against Defendants with the Texas Appraiser Licensing and Certification Board ("TALCB").

E. IndyMac Bank, FSB no longer exists. Claimant did not file the complaint with the TALCB, is finally settling its claims with Defendants, has no interest in any prior complaint, and has not sought to file its own complaint with the TALCB against Defendants concerning the APPRAISAL.

F. The Claimant and Defendants (Claimant and Defendants are hereafter referred to singularly as "Party" or collectively as the "Parties") have agreed to a settlement of the claims and causes of action asserted, or that could have been asserted against Defendants, in the above-entitled and numbered cause ("the Litigation").

G. This Settlement Agreement is in full settlement and discharge of all matters asserted in or related to the Litigation, and all unasserted but potential matters of controversy that could have been brought in the Litigation by Claimant against Defendants, or by Defendants against Claimant.

H. Claimant and Defendants desire to enter into this Settlement Agreement in order to provide for the agreed-upon payment in full settlement and discharge of all claims by Claimant against Defendants, and by Defendants against Claimant, which are, or might have been, the subject of the Litigation, upon the terms and conditions set forth herein.

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

AGREEMENT

1. **CLAIMANT'S RELEASE AND DISCHARGE**

In consideration of the payment called for herein, the Claimant for itself, its predecessors, successors, assigns, agents, representatives, beneficiaries, employees, associates, affiliates, partners, partnerships, limited partnerships, limited liability partnerships, corporations, professional corporations, companies, limited liability companies, firms, entities, insurers, and/or attorneys (hereinafter collectively referred to as "Claimant") hereby completely releases and forever discharges Defendants, their agents, officers, shareholders, directors, representatives, insurers, employees, and attorneys (hereinafter collectively referred to as "Defendants") from any and all past, present or future claims, demands, damages, expenses, obligations, actions, causes of action, rights, liens, subrogation interests, and compensation of any nature whatsoever, whether based on tort, contract, statute, or other theory of recovery, which the Claimant now has, or which may hereafter accrue or otherwise be acquired, on account of, or in any way growing out of, or which are the subject of the APPRAISAL. By this Settlement Agreement, Claimant does not release, and expressly preserves fully and to the same extent as if the Settlement Agreement had not been executed, any claims or causes of action that do not arise from or relate to the APPRAISAL.

2. **DEFENDANTS' RELEASE AND DISCHARGE**

In consideration of the release and dismissal of Claimant's claims herein, Defendants for themselves, their predecessors, successors, assigns, agents, representatives, beneficiaries, employees, associates, affiliates, partners, partnerships, limited partnerships, limited liability partnerships, corporations, professional corporations, companies, limited liability companies, firms, entities, insurers, and/or attorneys hereby completely release and forever discharge IndyMac Bank, FSB, IndyMac Federal Bank, FSB, Federal Deposit Insurance Corporation as Receiver for IndyMac

Federal Bank, FSB and as Conservator for IndyMac Federal Bank, FSB, and their agents, officers, shareholders, directors, representatives, insurers, employees, and attorneys from any and all past, present or future claims, including but not limited to claims for attorney fees and sanctions, demands, damages, expenses, obligations, actions, causes of action, rights, liens, subrogation interests, and compensation of any nature whatsoever, whether based on tort, contract, statute, or other theory of recovery, which the Defendants now have, or which may hereafter accrue or otherwise be acquired, on account of, or in any way growing out of, or which are the subject of the APPRAISAL.

3. INDEMNIFICATION AND ASSIGNMENT

In further consideration of the payment of the sum expressed below, Claimant agrees to HOLD HARMLESS and INDEMNIFY the Defendants up to, but no more than Fifteen Thousand and No/100 Dollars (\$15,000.00), from any and all future obligations, liabilities or claims which may ever be asserted by anyone claiming by, through, on behalf of, or under the Claimant who owned or had an interest in the loans subject to this litigation; arising out of, resulting from, or in any manner relating to the APPRAISAL.

4. PAYMENT

Within thirty (30) days of the effective date of this Agreement, in consideration of the Release set forth above, it is agreed that Defendants shall cause to be made a cash payment in the total amount of Fifteen Thousand and No/100 Dollars (\$15,000.00) made payable to the FDIC as Receiver for IndyMac Federal Bank, FSB.

5. ATTORNEY'S FEES

Each Party hereto shall bear all attorney's fees arising from the actions of its own counsel in connection with the Litigation, this Settlement Agreement and the matters and documents referred

to herein, and all related matters.

6. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT

The Claimant represents and warrants that no other person or entity has any interest in the claims, demands, obligations or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein; and that the Claimant has the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that the Claimant has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Settlement Agreement.

7. ENTIRE AGREEMENT AND SUCCESSORS IN INTEREST

This Settlement Agreement contains the entire agreement between the Parties with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

8. REPRESENTATION OF COMPREHENSION OF DOCUMENT

In entering into this Settlement Agreement, the Parties represent that they have completely read the terms of this Settlement Agreement, that the terms have been fully explained to the Parties by their respective attorneys, and that all terms of this Agreement are fully understood and voluntarily accepted by them.

9. GOVERNING LAW

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Texas.

10. ADDITIONAL DOCUMENTS

10.1 All the 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 of the basic terms and intent of this Settlement Agreement.

10.2 None of the Parties released have made any representations concerning, nor shall they be responsible in any manner for, the income tax consequences to the Claimant by reason of the Claimant's execution of this Settlement Agreement, or any payment made pursuant to this Settlement Agreement.

11. EFFECTIVENESS

This Settlement Agreement shall become effective following execution by the Parties herein.

CAUTION: READ THIS BEFORE SIGNING

IN WITNESS WHEREOF, the Parties and undersigned hereto, intending to be legally bound, have consented to and executed this Settlement Agreement on the dates set forth below.

THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC FEDERAL BANK, FSB

(b)(6)

By: [Redacted]

Its: Counsel

Date: 6th day of August, 2009

Commonwealth

STATE OF Virginia §

COUNTY OF Arlington §

Before me, the undersigned authority, on this day personally appeared Archere S. Gill, known to me to be an authorized representative of the FDIC as Receiver for IndyMac Federal Bank, FSB, whose name is subscribed to the foregoing instrument through a current identification card issued by the federal government or any state government that contains the photograph and signature of the acknowledging person, and acknowledged to me that he/she read and understood this Settlement Agreement and executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 6 ^{August} day of July, 2009.

(b)(6)

[Redacted]

NOTARY PUBLIC STATE OF Virginia
Susan Schwartzbart
Printed Name of Notary Public

My commission expires: 11-30-2010



Susan Schwartzbart
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7029570
My Commission Expires
November 30, 2010

IN WITNESS WHEREOF, the Parties and undersigned hereto, intending to be legally bound, have consented to and executed this Settlement Agreement on the dates set forth below.

B INTERESTS, INC. D/B/A FIRST HOUSTON APPRAISAL

(b)(6)

By

Its

Date:

8/13/09

July

2009

(b)(6)

STATE OF TEXAS

§

§

COUNTY OF Harris

§

Before me, the undersigned authority, on this day personally appeared James Banks known to me to be an authorized representative of B Interests, Inc. d/b/a First Houston Appraisal, whose name is subscribed to the foregoing instrument through a current identification card issued by the federal government or any state government that contains the photograph and signature of the acknowledging person, and acknowledged to me that he/she read and understood this Settlement Agreement and executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 13 day of ^{AUG} ~~July~~, 2009.

(b)(6)

NOTARY PUBLIC STATE OF TEXAS

Diana Lopez
Printed Name of Notary Public

My commission expires: 4/24/2013



IN WITNESS WHEREOF, the Parties and undersigned hereto, intending to be legally bound, have consented to and executed this Settlement Agreement on the dates set forth below.

(b)(6)

James Brian Banks

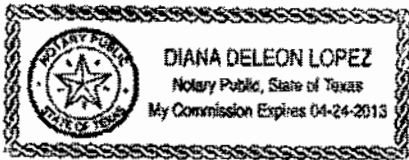
STATE OF TEXAS

§
§
§

COUNTY OF Harris

Before me, the undersigned authority, on this day personally appeared James Brian Banks, known to me to be the person whose name is subscribed to the foregoing instrument through a current identification card issued by the federal government or any state government that contains the photograph and signature of the acknowledging person, and acknowledged to me that he read and understood this Settlement Agreement and executed the same for the purposes and consideration herein expressed.

SUBSCRIBED AND SWORN TO before me on this 13 day of August, 2009.



(b)(6)

NOTARY PUBLIC STATE OF TEXAS

Diana Lopez
Printed Name of Notary Public

My commission expires: 4/24/2013