

No. 380-03576-07

INDYMAC BANK, F.S.B.,

Plaintiff,

v.

DAVID E. HOGG, AARON D. MOLLOY,
ADM RELOCATIONS, PAM FORD, AND
FORD PROFESSIONAL APPRAISALS,

Defendants.

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IN THE DISTRICT COURT

380th JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is entered into by and between the Federal Deposit Insurance Corporation, as receiver for IndyMac Bank, F.S.B. (the "FDIC") and Defendant David E. Hogg ("Hogg") (the FDIC and Hogg collectively hereinafter as the "Parties").

RECITALS

WHEREAS, disputes have arisen among and between the FDIC and Hogg arising out of loans made to Hogg totaling \$700,000 (the "Loans") for the purchase of property located at 5949 Orchard Park Drive, Frisco, Texas 75034 (the "Property");

WHEREAS, the FDIC and Hogg are parties in a lawsuit styled *IndyMac Bank, F.S.B. v. David E. Hogg, Aaron D. Molloy, ADM Relocations, Pam Ford, and Ford Professional Services*, Cause No. 380-03576-07, in the 380th District Court, Collin County, Texas (hereinafter the "Lawsuit");

WHEREAS, the FDIC asserts claims against Hogg in the Lawsuit for fraud and civil conspiracy and seeks damages;

WHEREAS, to avoid the possible costs, burdens and distractions of future litigation, the Parties now desire to and, through the execution of this Agreement, do hereby dispose of and resolve fully and completely any and all disputes, claims, issues, and differences among and between them as set forth hereinafter;

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:

(b)(2)



TERMS OF SETTLEMENT AGREEMENT

1. The FDIC agrees to settle the Lawsuit with Hogg for a payment of consideration from Hogg totaling \$30,000.00 (the "Consideration").
2. The parties agree that each will pay its own costs, expenses, and attorneys' fees.
3. Hogg agrees to pay the Consideration as follows:
 - (a) \$10,000.00 within 2 days of execution of this agreement by the FDIC.
 - (b) Thereafter, Hogg will pay \$500 per month for 40 months. Payments must be received by the FDIC by the first Monday of the month.
 - (c) The first \$500 payment shall be received by the FDIC no later than Monday, December 7, 2009.
4. Hogg shall make all above-referenced payments via check or wire transfer. Checks shall be made payable to Mortgage Recovery Law Group Client Trust Account and reference the case number and name above. Checks shall be mailed to:

Paul A. Levin
Mortgage Recovery Law Group
700 North Brand Boulevard, Suite 830
Glendale, CA 91203
5. Within 10 days of receipt of this Settlement Agreement executed by Hogg, the FDIC will file an agreed notice of nonsuit without prejudice and submit an agreed order regarding same.
6. In event of default in payments, the FDIC shall send a written notice to Hogg at the addresses set forth below. Hogg shall be given a 5 day opportunity to cure. If Hogg does not cure, the FDIC shall have the right to reduce this agreement to judgment for the remaining unpaid payments, and shall be entitled to its attorneys' fees and costs for same. Unless there is a dispute as to payments made and not credited properly, Hogg shall make no defenses to suit or dispute the allegations. A motion to enter judgment would be filed and agreed on for any amounts set forth herein that have not been paid.
7. Upon receipt of all payments of the Consideration due under this Settlement Agreement, the FDIC and its successors, predecessors, and assigns, RELEASE, ACQUIT, AND FOREVER DISCHARGE Hogg and his past, present and future agents, brokers, representatives, successors, predecessors, affiliates, assigns, and attorneys from and against any and all claims asserted in the Lawsuit. This release is limited to any and all actual or implied claims, demands and causes of action asserted in the Lawsuit relating to the Loans and the Property. This release is expressly conditioned upon full performance of the terms of this Settlement Agreement by Hogg.

8. Except as to such rights as may be created under this Settlement Agreement, Hogg and his agents, representatives, successors, predecessors, and assigns hereby irrevocably and unconditionally RELEASE, ACQUIT, AND FOREVER DISCHARGE the FDIC and its past, present and future agents, brokers, employees, representatives, officers, directors, parents, subsidiaries, sister companies, successors, predecessors, affiliates, assigns, and attorneys from and against any and all claims including, but not limited to, all claims whatsoever related to or arising from, directly or indirectly, the Lawsuit.
9. After all payments above have been made, Hogg may submit a draft release agreement to the FDIC at the address in paragraph 10. The FDIC shall execute and deliver a release to Hogg within 30 days after receipt of the draft release from Hogg. If the release is not given within 30 days after the draft release is sent to the FDIC, then Hogg may file suit to compel a release.
10. All communications with the FDIC regarding this matter shall reference the case name and number above and be sent to:

Mortgage Recovery Law Group
Attention: Paul A. Levin
700 North Brand Boulevard, Suite 830
Glendale, CA 91203
11. All communications with Hogg shall be sent to:

Gil L. Daley, II
The Law Office of Gil L. Daley, II, P.C.
209 West 2nd Street #107
Fort Worth, TX 76102
12. It is the responsibility of each party to notify opposing party of any change of address.
13. Each Party agrees to be solely responsible for the payment of their respective attorney's fees, court costs, expert witness fees, court reporter's fees, and all other expenses incurred on said party's behalf as a result of or in connection with the Lawsuit and/or this Agreement.
14. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas in all respects, including matters of construction, validity, enforcement and interpretation. The Parties agree that this Agreement is performable in Dallas County, Texas and venue shall lie in Dallas County, Texas with respect to any matter of dispute relating to this Agreement.
15. This Agreement may be executed in a number of identical counterparts, each of which shall constitute collectively one agreement; but in making proof of this Agreement it shall not be necessary to produce or account for more than one such counterpart containing the



signature of the Party or Parties against whom enforcement is sought. This Agreement may be executed with facsimile signatures.

16. The Parties represent and warrant: (a) They have the full power, authority, and capacity to execute, deliver and perform all of the obligations set forth in and arising from this Agreement; (b) That they have no awareness of the existence of any actual or potential claim, demand, suit, cause of action, charge or grievance possessed by them, which is not subject to and fully released by this Agreement, except for matters as may be expressly excluded in this Agreement, that concerns or relates in any way, directly or indirectly, to the Lawsuit or the Property; (c) That they have not assigned or otherwise transferred to any other person or entity any interest in any claim, account, motion, demand, action and/or cause of action they have, or may have, or may claim to have against the persons and entities released herein; (d) That this Agreement constitutes the entire valid and binding obligations and agreements of the Parties with regard to the matters covered therein; (e) That in executing this Agreement, they have not received or relied upon any oral or written representation of any other Party or person (except for the warranties, representations, covenants, terms and conditions contained in writing in this Agreement regarding any fact, circumstance, condition, legal effect, promise of future action or any other consideration; (f) That the consideration given in connection with this Agreement constitutes adequate consideration for each and every term of this Agreement; (g) That they have retained independent counsel and received legal advice from such counsel with respect to this Agreement and the advisability of making this settlement; and that they fully understand the terms of this Agreement and the consequences thereof, and have entered into this Agreement of their own free will and accord without any threat or duress.
17. By execution of this Agreement, the Parties do not admit the truthfulness of any of the claims or allegations made against them by any opposing Party, and the execution of this Agreement shall not constitute nor ever be offered by any Party as an admission of any fact or allegation asserted in any lawsuit or legal proceeding.
18. This Agreement embodies the complete agreement between the Parties, nullifies any prior agreement concerning the subject matter hereof, and cannot be varied or terminated except by the written consent of the Parties.

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)(2)

Federal Deposit Insurance Corporation

(b)(6)

By:

[Redacted]

Printed Name: Jock S. Duncan

Title: Counsel

Date: Nov. 16, 2009

STATE OF CALIFORNIA

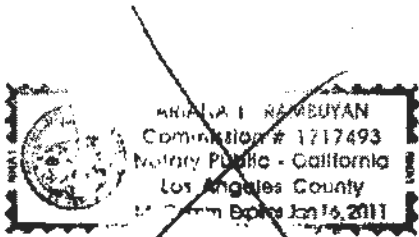
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COUNTY OF ORANGE

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Before me, the undersigned authority, on this day personally appeared JOCK S. DUNCAN of Federal Deposit Insurance Corporation, known to me to be the person whose name is subscribed to the foregoing agreement, and after being duly sworn, acknowledged to me that s/he has executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

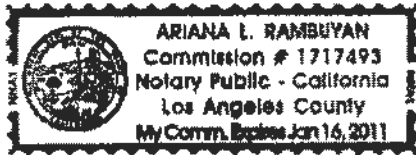
Given under my hand and seal of office on NOVEMBER 16, 2009.



[Redacted]

(b)(6)

Notary Public, In and for the State of California



(b)(2)

[Redacted]

(b)(6)

[Redacted]

David E. Hogg

Date: November 16, 2009

STATE OF TEXAS

COUNTY OF DALLAS

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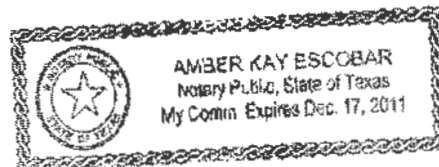
Before me, the undersigned authority, on this day personally appeared David E. Hogg, known to me to be the person whose name is subscribed to the foregoing agreement, and after being duly sworn, acknowledged to me that he has executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office on November 16, 2009.

[Redacted]

Notary Public, In and for the State of Texas

(b)(6)



(b)(2)

[Redacted]

AGREED AS TO FORM:

Carolyn Gebhard Johnson
Attorney for Intervening Plaintiff IndyMac Bank, F.S.B.
And the Federal Deposit Insurance Corporation as Conservator
For IndyMac Federal Bank, F.S.B.

(b)(6)



Gil L. Daley, II
Attorney for Defendant David E. Hogg

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