

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Housing and Urban Development (“HUD”) and the Department of Housing and Urban Development Office of Inspector General (collectively the “United States”) and U.S. Bank National Association (“U.S. Bank”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. U.S. Bank is a Direct Endorsement Lender approved by the Federal Housing Administration (“FHA”), a division of HUD’s Office of Housing. U.S. Bank is a national bank with its principal place of business in Cincinnati, Ohio, and operations in numerous states.

B. U.S. Bank agrees that it engaged in the conduct set forth in Attachment A in connection with its origination, underwriting, quality control, and endorsement of single-family residential mortgage loans that were insured by the FHA on or after January 1, 2006, endorsed by U.S. Bank on or before December 31, 2011, and resulted in claims submitted to HUD on or before March 28, 2014. That conduct is referred to below as the Covered Conduct. The Covered Conduct does not include claims resulting from streamline refinances or reverse mortgages. The United States contends that it has certain civil claims against U.S. Bank arising from the Covered Conduct.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

## TERMS AND CONDITIONS

1. U.S. Bank shall pay to the United States two hundred million dollars (\$200,000,000) ("Settlement Amount") by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice no later than five days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3 (concerning excluded claims) below, and conditioned upon U.S. Bank's full payment of the Settlement Amount, the United States releases U.S. Bank together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and officers, directors, employees, and affiliates; agents and attorneys; and the successors and assigns of any of them, from any civil or administrative monetary claims or causes of action, and from any monetary remedy or penalty, the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, 12 U.S.C. § 1833a; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud, or any other statute or common law cause of action for civil damages or civil penalties that the Civil Division of the United States Department of Justice has actual and present authority to assert and compromise pursuant to 28 C.F.R. § 0.45(d), for the conduct set forth in Attachment A in connection with the Covered Conduct and the Released Loans.

3. Notwithstanding the release given in paragraph 2 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any claims and conduct other than the Covered Conduct, including any liability for the following claims and conduct, and no setoff related to amounts paid under this agreement shall be applied to any recovery in connection with any such claims or conduct:
  - (i) any claims and conduct asserted in *United States, et al., ex rel. Szymoniak, v. American Home Mortgage Servicing, Inc., et al.*, Civil No. 0:10-cv-01465-JFA (D.S.C.) [REDACTED] and *United States et al. ex rel. Szymoniak v. Ace Securities Corp., et al.*, Civil No. 13-CV-464-JFA (D.S.C.) [REDACTED];
  - (ii) any claims and conduct asserted in U.S. ex rel. [Sealed] v. [Sealed], [REDACTED];
  - (iii) any claims and conduct asserted in U.S. ex rel. [Sealed] v. [Sealed], [REDACTED];

(iv) any claims and conduct asserted in U.S. ex rel.

[Sealed] v. [Sealed], [REDACTED];

(v) any claims for any false or fraudulent statements, claims, and/or certifications to HUD in connection with the reimbursement of costs or expenses incurred in connection with foreclosure-related proceedings anywhere in the United States (including foreclosure proceedings or other proceedings, such as bankruptcy or eviction proceedings, involving claims or issues relating to foreclosure), and any failure to comply with, or any false or fraudulent statements, claims, and/or certifications to HUD concerning compliance with, quality control and/or monitoring requirements applicable to such costs or expenses.

e. Any liability based upon obligations created by this Agreement;

f. Any liability of individuals (including current or former directors, officers, employees, agents, or shareholders of U.S. Bank) who receive written notification that they are the target of a criminal investigation (as defined in the United States Attorneys' Manual), are indicted or charged, or who enter into a plea agreement, related to the Covered Conduct.

4. U.S. Bank waives and shall not assert any defenses U.S. Bank may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. U.S. Bank fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that U.S. Bank has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of U.S. Bank, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;

- (3) U.S. Bank's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment U.S. Bank makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by U.S. Bank, and U.S. Bank shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, U.S. Bank shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by U.S. Bank or any of its subsidiaries or affiliates from the United States. U.S. Bank agrees that the United States, at a minimum, shall be entitled to recoup from U.S. Bank any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine U.S. Bank's books and records and to disagree with any calculations submitted by U.S. Bank or any of its subsidiaries or affiliates regarding any Unallowable Costs included in

payments previously sought by U.S. Bank, or the effect of any such Unallowable Costs on the amount of such payments.

7. This Agreement is intended to be for the benefit of the Parties only.

8. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

9. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

10. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Northern District of Ohio. 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.

11. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

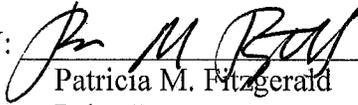
14. This Agreement is binding on U.S. Bank's successors, transferees, heirs, and assigns.

15. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

16. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 6/30/14

BY:   
Patricia M. Fitzgerald  
Brian Bowcut  
Trial Attorneys  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice  
and

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Steven M. Dettelbach  
United States Attorney  
Michelle L. Heyer  
Angelita Cruz Bridges  
Assistant United States Attorneys  
Northern District of Ohio  
and

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Barbara McQuade  
United States Attorney  
Leslie Wizner  
Assistant United States Attorney  
Eastern District of Michigan

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BY: \_\_\_\_\_

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Brian Bowcut  
Trial Attorneys  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

and

DATED: 6-27-14

BY: \_\_\_\_\_

Steven M. Dettelbach  
United States Attorney  
Michelle L. Heyer  
Angelita Cruz Bridges  
Assistant United States Attorneys  
Northern District of Ohio

and

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Barbara McQuade  
United States Attorney  
Leslie Wizner  
Assistant United States Attorney  
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THE UNITED STATES OF AMERICA

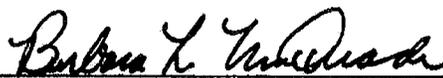
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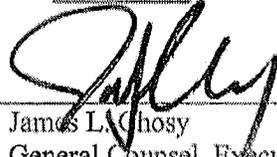
BY: \_\_\_\_\_  
Steven M. Dettelbach  
United States Attorney  
Michelle L. Heyer  
Angelita Cruz Bridges  
Assistant United States Attorneys  
Northern District of Ohio  
and

DATED: 6-27-14

BY:   
Barbara McQuade  
United States Attorney  
Leslie Wizner  
Assistant United States Attorney  
Eastern District of Michigan

U.S. BANK

DATED: 6/26/14 BY:



James L. Ghosy  
General Counsel, Executive Vice President  
U.S. Bank National Association

DATED: 6/26/14 BY:



Andrew L. Sandler  
Benjamin B. Klubes  
Andrew W. Schilling  
Caitlin M. Kasmar  
BuckleySandler LLP  
Counsel for U.S. Bank National Association