SETTLEMENT AGREEMENT AND MUTUAL RELEASE

1. **PARTIES**: The parties to this Settlement Agreement ("Agreement") are Plaintiff FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Downey Savings & Loan Association, F.A. ("FDIC") on the one hand, and Defendant NORMAN J. MALLILLIN ("Appraiser"), on the other hand. The FDIC and Appraiser are sometimes herein collectively referred to as the "Parties."

2. **RECITALS**: This Agreement is made with reference to the following facts:

2.1 Certain claims arose between the Parties concerning two residential loans. The first, for $425,000 ("[redacted] Loan") was made by Downey to borrowers named [redacted] The [redacted] Loan was secured by a deed of trust on real property commonly known as [redacted] Vallejo, California. The Appraiser prepared an appraisal report effective as of September 20, 2005 that was provided to Downey in connection with the application for the [redacted] Loan. The second loan, for $272,000 ("[redacted] Loan") was made by Downey to a borrower named [redacted] The [redacted] Loan was secured by a deed of trust on real property commonly known as [redacted] Hercules, California. The mortgage broker that submitted the Appraiser's two appraisal reports to Downey was QUEST F.S., INC., a California corporation d/b/a Quest Financial Services. The [redacted] Loan and [redacted] Loan were approved and funded by Downey and subsequently defaulted. Following trustee's foreclosure sales on the deeds of trust that secured the [redacted] Loan and [redacted] Loan, Downey sustained a loss that the FDIC is charged with seeking to recover upon (the "Claims").

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

2.2 The Claims subsequently became the subject of a Complaint ("Complaint") entitled *FDIC v. Quest F.S., Inc. dba Quest Financial Services, et al*, Case No. CV10-00710 DOC (RNBx), filed by the FDIC in the United States District Court for the Central District of California, Southern Division (the "Action").

2.3 The Appraiser was served with the Summons and Complaint in the Action.

2.4 The Parties have agreed to resolve the Claims alleged by the FDIC against the Appraiser in the Action pursuant to the terms stated in this Agreement. Accordingly, the Appraiser has not responded to the Complaint.

2.5 By this Agreement the Parties intend to settle and dispose of, fully and completely, any and all claims, demands, causes of action, obligations, damages, and liabilities

that arise out of or relate to the Action and the Claims alleged therein by the FDIC against the Appraiser.

3. **NO ADMISSION RE MERITS OF CLAIMS**: The Parties agree that nothing in this Agreement, and no performance under this Agreement, shall be construed as an admission by either Party of the validity or invalidity of the Claims alleged in the Action against the Appraiser; and, the Parties agree that this Agreement is entered into for the purpose of convenience and to compromise the disputed Claims alleged in the Action.

4. **SETTLEMENT TERMS**: The Parties agree to the following settlement terms:

4.1 The Appraiser agrees to pay to the FDIC the sum of $5,000.00 concurrent with his execution of this Agreement.

4.2 Upon execution of this Agreement by the Appraiser and the clearance of his tender of payment to the FDIC, the FDIC shall file a dismissal with prejudice of the Appraiser from the Action.

5. **MUTUAL RELEASE**:

5.1 In consideration of the Settlement terms as set forth in Paragraph 4 above, and all other promises, covenants and consideration provided for herein, the Parties agree that, except as to such rights or claims as may be created by this Agreement, they hereby covenant not to sue each other again on the Claims and the Parties acknowledge full and complete satisfaction of, and hereby release, remise, and forever discharge each other, including their respective officers, directors, affiliated companies, agents, servants, representatives, spouse, heirs, successors or predecessors in interest, assignees, attorneys, employees and contractors of and from any and all Claims, demands, counts, obligations, agreements, damages, liabilities, losses, costs and expenses of any kind, in law or in equity, whether known or unknown, that either Party now holds, or has ever held against the other, that arise out of or are in any way connected with, the Claims alleged in the Action.

5.2. This Agreement shall be binding on the Parties and on their respective officers, directors, affiliated companies, agents, servants, representatives, spouse, heirs, successors or predecessors in interest, assignees, attorneys, employees and contractors and shall inure to the benefit of said Parties, and each of them.

6. **ATTORNEYS' FEES**: In the event that any action is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees in addition to any other relief to which the prevailing party may be entitled.

7. **REPRESENTATIONS AND WARRANTIES**: The Parties represent, warrant, and agree as follows:

7.1 The FDIC is the lawfully appointed Receiver for Downey and has succeeded to and now holds each of the Claims that are the subject of this Agreement. The

FDIC has the authority to enter into this compromise and settlement of the Claims as the Receiver of Downey.

7.2 Each of the Parties has received or had the opportunity to seek their own independent legal advice with respect to the advisability of executing this Agreement. The Parties acknowledge that they have executed this Agreement without fraud, duress, or undue influence. The Parties affirm that they have read this Agreement and understand the contents hereof.

7.3 No Party, nor any agent or attorney of any Party, has made any statement, representation, or promise to any other Party regarding any facts which the Party has then relied upon in entering into this Agreement, and the Parties here each affirm that they have not relied upon any statement, representation or promise by any other Party, or of any agent or attorney for another Party, in executing this Agreement, or in making the settlement provided for herein, except as is expressly represented or promised in this Agreement.

7.4 None of the Parties have heretofore assigned, transferred, or granted, or purported to assign, transfer, or grant, any of the Claims that are alleged in the Action.

7.5 Each Party agrees to execute any additional documents as reasonably convenient, necessary or desirable to carry out the provisions of this Agreement.

8. **MISCELLANEOUS**:

8.1 This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereto shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

8.2 This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties. This Agreement may only be modified in a writing signed by all the Parties. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties to this Agreement.

8.3 The provisions of this Agreement are contractual and not mere recitals. The Agreement shall be considered severable, such that if any provision or part of the Agreement is ever held invalid under any law or ruling, that provision or part of the Agreement shall remain in force and effect to the extent allowed by law, and all other provisions or parts shall remain in full force and effect.

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8.4 This Agreement may be executed in counterparts and shall be effective on the date first executed by any one of the Parties hereto if so executed in counterparts (the "effective date"). An authenticated copy of this Agreement can be used for any purpose for which the original may be used.

(b)(6) [redacted]

DATED: 12/28/2010

NORMAN J. MALLILLIN, Appraiser

(b)(6) [redacted]

DATED: 4/1/2011

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for Downey Savings & Loan Association, F.A.
By: David T. Bartels
Its: Senior Attorney

APPROVED AS TO FORM:

HERSHORIN & HENRY LLP

(b)(6) [redacted]

By: [redacted] 01/3/2011
JEAN C. WILCOX
Attorney for Federal Deposit Insurance Corporation as Receiver for Downey Savings & Loan Association, F.A.

LAW OFFICES OF DANA DEAN

(b)(6) [redacted]

By: [redacted] 12/28/10
DANA DEAN
Attorney for Norman J. Mallillin