

SETTLEMENT AND RELEASE AGREEMENT

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

The Plaintiff Federal Deposit Insurance Corporation as Receiver for Washington Mutual Bank ("FDIC-R") and CTX Mortgage Company, LLC ("CTX") and Pulte Mortgage LLC ("Pulte Mortgage") (collectively "Defendants") (individually, FDIC-R and Defendants may be referred to herein as "Party" and collectively as the "Parties"). This Settlement 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 Nevada;

On September 25, 2008, the Office of Thrift Supervision closed WaMu, 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 August 14, 2023, FDIC-R filed a complaint for money damages against Defendants. Those claims for damages are now pending in the United States District Court for the Central District of California in *FDIC-R v. CTX MORTGAGE COMPANY, LLC et al.* 8:23-cv-01617-KK-MAR ("Action"). Defendants have 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, on or before November 12, 2024, Defendants shall pay FDIC-R the sum of \$1,000,000 ("the Settlement Payment"). The Settlement Payment shall constitute a debt due and owing 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 the FDIC-R.

B. Defendants shall deliver the Settlement Payment to FDIC-R by electronic funds transfer pursuant to written instructions including a tax identification number to be provided by the FDIC-R within seven days after signing this Agreement.

C. If FDIC-R does not receive the Settlement Payment in full on or before the date determined by subsection A above, then Defendants shall be in default of their payment obligations ("Default") and interest shall accrue 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 (i.e. unpaid amount of Settlement Payment together with all accrued interest) 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 Settlement Payment in writing, including interest at the Default Interest Rate accruing from the date determined by subsection A above; or

2. Enforce this Agreement, including without limitation, by FDIC-R's motion to summarily enforce the agreed-upon settlement or for breach of the settlement agreement in the amount of the unpaid total (i.e. unpaid amount of Settlement Payment together with all accrued interest) together

with the costs of collection and all of the FDIC-R's reasonable attorney's fees and costs incurred in enforcing the terms of this Agreement. In such event, Defendants waive and covenant not to plead, argue, or otherwise assert any defense, claim or counterclaim of any kind whatsoever except the defense of payment of the Settlement Payment, in part or in full, to an action or motion to enforce this Agreement and agree to exclusive jurisdiction and venue in the United States District Court for the Central District of California; or

3. Terminate the Agreement by declaring it null and void, move to vacate any dismissal order, to which Defendants agree to consent, and re-institute an action on FDIC-R's claims. Defendants further agree to waive and covenants to not plead, argue, or otherwise assert any defense, claim or counterclaim of any kind whatsoever that did not exist or was otherwise unavailable as of the Effective Date, except the defense of payment of the Settlement Payment, in part or in full; 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 the Settlement Payment 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; provided, however, that in the event FDIC-R terminates this Agreement by declaring it null and void, FDIC-R will return to Defendants any and all amounts paid to FDIC-R under this Settlement Agreement.

SECTION II: Stipulation and Dismissal

Within ten business days after the latter of (1) full execution of this Agreement by all of the Parties, and (2) receipt of the Settlement Payment, plus any accrued interest, FDIC-R shall file a stipulation of dismissal with prejudice, executed by the

attorneys for all Parties hereto, in the form attached hereto as Exhibit A, in the Action. Within five business days after full execution of this Agreement by all of the Parties, FDIC-R, on behalf of the Parties, shall apprise the court of the settlement of this matter and request that the case be stayed or administratively suspended pending receipt by the FDIC-R of the Settlement Payment required under Section I.A of this Agreement.

SECTION III: Releases

A. FDIC-R's Releases.

Upon receipt of the Settlement Payment in full and except as provided in Section III.D., FDIC-R, for itself and its successors and assigns, hereby releases and discharges Defendants and their 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 (a) the causes of action alleged in the Action (including any claims for monetary damages, prejudgment interest, costs and expenses, attorneys' fees, and any other relief sought in connection with such causes of action), or (b) any loan secured by an interest in residential real property (including, without limitation, any residential mortgage loan, home equity loan, home equity line of credit loan, or home equity installment loan) that the Defendants originated, sold, conveyed, or brokered to WaMu or to its subsidiary Long Beach Mortgage Company prior to the Effective Date (clauses (a) and (b) collectively, the "Released Matters").

B. Defendants' Reciprocal Release.

Effective simultaneously with the release granted in Section III.A. above, Defendants on behalf of themselves and their respective parents, subsidiaries, and affiliates, and their respective successors and assigns, hereby release and discharge

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 the Released Matters.

C. Release of Unknown Claims Each of the FDIC-R and Defendants acknowledge that it has been advised by its attorneys concerning, and is familiar with, California Civil Code Section 1542 and expressly waives any and all provisions, rights, and benefits conferred by California Civil Code Section 1542 or any law of any other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to the provisions of the California Civil Code Section 1542, including that provision itself, which reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

The Parties acknowledge that inclusion of the provisions of this Paragraph C in this Agreement was a material and separately bargained-for element of this Agreement. The Parties further acknowledge that the releases granted herein are specific releases limited to those claims released in III.A-B, as modified by the exceptions set for in III-D below, not general releases.

D. 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 Defendants 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; and

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 the FDIC-R), including, but not limited to, through the United States Department of Justice or any United States Attorney's Office.

SECTION IV: 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 he, she, or 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 his or her counsel.

SECTION V: 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 undersigned 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 the FDIC-R:

Joshua H. Packman
3501 Fairfax Drive
Arlington, Virginia 22226
(703) 562-2816
jpackman@fdic.gov

If to Defendants:

Philip R. Stein
Bilzin Sumberg
1450 Brickell Ave., Suite 2300
Miami, Florida 33131
(305) 374-7580
PStein@bilzin.com

E. Entire Agreement and Amendments. This Agreement, including Exhibits, constitutes the entire agreement and understanding between and among the undersigned 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 undersigned 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 WAMU

Date: 9/13/2024

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Counsel

CTX MORTGAGE COMPANY, LLC

Date: 09.13.2024

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Michael K. Sullivan
SVP and General Counsel
CTX Mortgage Company, LLC

PULTE MORTGAGE LLC

Date: 09.13.2024

b6

Michael K. Sullivan
SVP and General Counsel
Pulte Mortgage LLC

EXHIBIT A

MARK MIGDAL & HAYDEN

PAUL A. LEVIN (CA State Bar No. 229077)
LAUREN M. GIBBS (CA State Bar No. 251569)
11150 Santa Monica Blvd., Suite 1670
Los Angeles, California 90025
Telephone: (305) 374-0440
e-mail: paul@markmigdal.com
lauren@markmigdal.com

MORTGAGE RECOVERY LAW GROUP, LLP

MICHAEL H. DELBICK (CA State Bar No. 139200)
550 North Brand Boulevard, Suite 1100
Glendale, California 91203
Telephone: (818) 630-7900
e-mail: mdelbick@themrlg.com

**FEDERAL DEPOSIT INSURANCE
CORPORATION**

JOSHUA H. PACKMAN (admitted *pro hac vice*)
3501 Fairfax Drive
Arlington, Virginia 22226
Telephone: (703)-474-1435
e-mail: jpackman@fdic.gov

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

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

FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER
FOR WASHINGTON MUTUAL
BANK,

Plaintiff,

vs.

CTX MORTGAGE COMPANY,
LLC and PULTE MORTGAGE,
LLC.,

Defendant(s).

Case No. 8:23-cv-01617-KK-MAR

**JOINT STIPULATION TO DISMISS
CASE WITH PREJUDICE; ORDER
THEREON**

1 Plaintiff Federal Deposit Insurance Corporation as Receiver for Washington
2 Mutual Bank and Defendants CTX Mortgage Company, LLC, and Pulte Mortgage,
3 LLC, hereby stipulate pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) that
4 this action be dismissed with prejudice as to all claims, causes of action, and parties,
5 with each party bearing that party's own attorney's fees and costs.

6 Respectfully submitted,

7 DATED: September 13, 2024

MARK MIGDAL & HAYDEN

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9 By: /s/ Lauren M. Gibbs

LAUREN M. GIBBS
Attorney for Plaintiff, FDIC-R for
Washington Mutual Bank

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13 BILZIN SUMBERG BAENA PRICE &
14 AXELROD LLP

15 By: /s/ Philip Stein

16 Philip R. Stein, Fla. Bar No. 67278

17 *Admitted Pro Hac Vice*

18 *Attorneys for CTX Mortgage Company, LLC,*
19 *and Pulte Mortgage, LLC*

20 Pursuant to Civil L.R. 5-4.3.4(a)(2)(i), the filer attests that all other
21 signatories listed, and on whose behalf this filing is submitted, concur in the filing's
22 content and have authorized the filing.

23 By: /s/ Lauren Gibbs

24 LAUREN M. GIBBS

ORDER OF DISMISSAL

Pursuant to the stipulation of the parties under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), IT IS ORDERED THAT THIS ACTION BE, AND HEREBY IS, DISMISSED WITH PREJUDICE as to all claims, causes of action and parties, with each party bearing that party's own attorney's fees and costs.

IT IS SO ORDERED.

Dated: _____

HON. KENLY KIYA KATO
UNITED STATES DISTRICT JUDGE