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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

WAYMAN TRIPP and SVEN  
MOSSBERG, Individually and  
on Behalf of all Others  
Similarly Situated,

Plaintiffs,

v.

INDYMAC BANCORP, INC. and  
MICHAEL W. PERRY,

Defendants.

Case No. CV 07-1635-GW (VBKx)

**ORDER AUTHORIZING  
DISTRIBUTION OF NET  
SETTLEMENT FUND**

Date: October 8, 2015  
Time: 8:30 a.m.  
Room: 10  
Judge: Hon. George H. Wu

1           WHEREAS, by its Order and Final Judgment entered in the above-  
2 captioned action (“Action”) on July 29, 2013 (Dkt. No. 350), this Court approved  
3 the terms of the settlement set forth in the Stipulation and Agreement of  
4 Settlement dated June 25, 2012 (the “Stipulation”) (Dkt. No. 306) and the plan  
5 for allocating the settlement proceeds to eligible Class Members (the “Plan of  
6 Allocation”), respectively; and

7           WHEREAS, this Court had directed the parties to consummate the terms  
8 of the Stipulation and Plan of Allocation; and

9           WHEREAS, the \$5,500,000 cash settlement proceeds have been deposited  
10 into an escrow account maintained by The Huntington National Bank on behalf  
11 of the Class (the “Settlement Fund”); and

12           WHEREAS, as set forth in the Notice of Pendency of Class Action and  
13 Proposed Settlement, Motion for Attorneys’ Fees and Expenses and Settlement  
14 Fairness Hearing (the “Notice”), the deadline for Class Members to submit Proof  
15 of Claim and Release forms (“Claim Forms” or “Claims”) to the Court-approved  
16 claims administrator for the Settlement, Rust Consulting, Inc (“Rust”), in order  
17 to be potentially eligible to participate in the distribution of the Net Settlement  
18 Fund has passed; and

19           WHEREAS, in satisfaction of due process requirements, all Class  
20 Members who submitted Claims that were in any way ineligible or deficient  
21 were: (1) informed that their Claims were ineligible or deficient; and (2) given  
22 opportunities to correct any curable deficiency(ies) prior to their Claims being  
23 finally rejected, or to contest the determination as to such deficiency(ies), by  
24 requesting review by the Court; and

25           WHEREAS, the process of reviewing all Claims has been completed; and

26           WHEREAS, Lead Counsel now seeks authorization to distribute the  
27 proceeds of the Settlement Fund to Authorized Claimants, after deduction of any  
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1 taxes, fees and expenses previously approved by the Court or approved by this  
2 Order (the “Net Settlement Fund”); and

3 WHEREAS, this Court has retained jurisdiction of this Action for the  
4 purposes of supervising the implementation, enforcement, construction, and  
5 interpretation of the Stipulation, the Plan of Allocation and the Judgment and  
6 supervising the distribution of the Settlement Fund;

7 NOW, THEREFORE, upon reading: (1) the Declaration of Jason Rabe  
8 Regarding (A) Processing of Claim Forms; (B) Calculation of Recognized  
9 Claims Pursuant to the Court-Approved Plan of Allocation; and (C) Proposed  
10 Plan for Distribution of Settlement Proceeds (the “Rabe Declaration”) submitted  
11 on behalf of Rust; (2) the Notice of Motion and Motion for Distribution of Net  
12 Settlement Fund; and Memorandum of Points and Authorities in Support; and (3)  
13 the other submissions and papers on file with the Court; and upon all prior  
14 proceedings heretofore had herein, and after due deliberation, it is hereby

15 ORDERED, that the administrative determinations of Rust accepting the  
16 Claims as indicated on the schedules of valid Claims submitted (*i.e.*, Exhibit I to  
17 the Rabe Declaration and the Revised Exhibit H filed with the Court on October  
18 9, 2015) and described in the Rabe Declaration, calculated pursuant to the Court-  
19 approved Plan of Allocation set forth in the Notice, be and the same hereby are  
20 approved, and said Claims are hereby accepted; and it is further

21 ORDERED, that the administrative determinations of Rust rejecting the  
22 Claims as indicated on the schedules of ineligible and rejected Claims submitted  
23 with and described in the Rabe Declaration under the Court-approved Plan of  
24 Allocation set forth in the Notice, be and the same hereby are approved, and said  
25 Claims are hereby rejected; and it is further

26 ORDERED, that payment be made from the Settlement Fund to the  
27 Internal Revenue Service for the proper amount of taxes due and owing on the  
28 interest earned on the Settlement Fund while in escrow, if any; and it is further

1 ORDERED, that Rust be paid the sum of \$297,065.92 from the Settlement  
2 Fund as payment for the balance of its fees and expenses incurred and to be  
3 incurred in connection with the administration of the Settlement and the  
4 distribution of the Net Settlement Fund; and it is further

5 ORDERED, that the Net Settlement Fund shall be distributed to the  
6 Authorized Claimants listed on the Revised Exhibit H filed with the Court on  
7 October 9, 2015 and Exhibit I attached to the Rabe Declaration pursuant to the  
8 Court-approved Plan of Allocation in proportion to each Authorized Claimant's  
9 Recognized Claim as compared to the total Recognized Claims of all Authorized  
10 Claimants as shown on such exhibits; and it is further

11 ORDERED, that the checks for distribution to the Authorized Claimants  
12 shall bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-  
13 DISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE  
14 DATE]." Lead Counsel and Rust are authorized to take appropriate actions to  
15 locate and/or contact any Authorized Claimant who has not cashed his, her or its  
16 check within said time; and it is further

17 ORDERED, that Authorized Claimants who do not cash their checks  
18 within the time allotted will irrevocably forfeit all recovery from the Settlement  
19 Fund; and it is further

20 ORDERED, that, any funds remaining following the distribution of the  
21 Net Settlement Fund to the Class, will be used: (i) first, to pay any amounts  
22 mistakenly omitted from the initial distribution to Authorized Claimants or to  
23 pay any late, but otherwise valid and fully documented claims received after the  
24 cut-off date used to make the initial distribution, which were not previously  
25 authorized by the Court to be paid, provided that such distributions to any late  
26 post-distribution claimants meet all of the other criteria for inclusion in the initial  
27 distribution, including the \$10.00 minimum check amount set forth in the Notice;  
28 (ii) second, to pay any additional fees and expenses incurred in administering the

1 Settlement; and (iii) finally, to make a second distribution to Authorized  
2 Claimants who cashed their checks from the initial distribution and who would  
3 receive at least \$10.00 from such second distribution, after payment of the  
4 estimated fees to be incurred in administering the Net Settlement Fund and in  
5 making this second distribution, if such second distribution is economically  
6 feasible; and it is further

7       ORDERED, that, any funds remaining six (6) months after such second  
8 distribution, if undertaken, or if such second distribution is not undertaken, and  
9 after the Claims Administrator has made reasonable and diligent efforts to have  
10 Authorized Claimants who are entitled to participate in this Settlement cash their  
11 checks, shall be donated to a 501(c)(3) charity selected by Lead Counsel and  
12 approved by the Court; and it is further

13       ORDERED, that the Court finds that the administration of the Settlement  
14 and the proposed distribution of the Net Settlement Fund comply with the terms  
15 of the Stipulation and the Plan of Allocation and that all persons involved in the  
16 review, verification, calculation, tabulation, or any other aspect of the processing  
17 of the Claims submitted in connection with the Settlement of this Action, or who  
18 are otherwise involved in the administration or taxation of the Settlement Fund  
19 or the Net Settlement Fund are released and discharged from any and all claims  
20 arising out of such involvement, and, pursuant to the release terms of the  
21 Settlement, all Class Members, whether or not they are to receive payment from  
22 the Net Settlement Fund, are barred from making any further claims against the  
23 Net Settlement Fund or the parties released pursuant to the Settlement beyond  
24 the amount allocated to them pursuant to this Order; and it is further

25       ORDERED, that Rust is hereby authorized to destroy the paper copies and  
26 all supporting documentation of the Claims one (1) year after the initial  
27 distribution of the Net Settlement Fund and all electronic copies and supporting  
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1 documentation of the Claims three (3) years after the initial distribution of the  
2 Net Settlement Fund; and it is further

3 ORDERED, that this Court retain jurisdiction over any further application  
4 or matter which may arise in connection with this Action; and it is further

5 ORDERED, that any Claim received after December 31, 2014 be rejected  
6 as untimely and not included in the initial distribution of the Net Settlement; and  
7 it is further

8 ORDERED, that any response to a Deficiency or Ineligibility Letter  
9 submitted after December 31, 2014 be rejected as untimely and not included for  
10 consideration in connection with the initial distribution of the Net Settlement.


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Dated: October 13, 2015

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The Honorable George H. Wu  
United States District Judge

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