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**PARTIAL SETTLEMENT AGREEMENT WITH U.S. BANK, N.A.**

The following sets forth the terms and conditions of a compromise and partial settlement in connection with the litigation styled *McGrew, et al. v. Harris Bank, et al.*, No. 03-2-40411-0 SEA (the "Action"), currently pending in King County Superior Court (the "Court") between Plaintiffs Merton McGrew, Shirley McGrew, Boyd H. Benson, Kristine J. Marshall, and the Class they represent, as defined below (the "Plaintiffs"), on one hand, and Defendant U.S. Bank, N.A., and the parents, affiliates, subsidiaries, directors, officers, employees, agents, and attorneys of U.S. Bank, N.A. (collectively "U.S. Bank"), on the other, (collectively, the "Settling Parties").

**I. RECITALS**

A. The Action involves allegations that the Defendants, individually and together, misled investors in Partners Mortgage Corporation Promissory Notes ("Noteholders") by omitting to state material facts and making untrue statements that resulted in significant financial losses by all Noteholders. As to Harris Bank, N.A., and U.S. Bank, N.A., the Plaintiffs allege that these parties breached their fiduciary duties to Noteholders, breached various contracts including the Trust and Security Agreement, violated the Washington State Securities Act, RCW 21.20, ("WSSA") as sellers and as control persons of PMC, and conspired with the other Defendants to defraud the Noteholders. U.S. Bank vigorously denies the allegations made and claims asserted in the Action.

B. The Court has certified a Class pursuant to CR 23(a) and (b)(3) defined as:

*All persons or entities who: (1) purchased Promissory Notes issued by Partners Mortgage Corporation (hereinafter "PMC"), a Washington corporation, at any time on or between November 7, 1997 through September 1, 2003 (hereinafter "Class Period"); and (2) who had not been paid in full the face value and all interest due on their Promissory Notes by the date PMC filed for bankruptcy, September 26, 2003. The class shall exclude defendants, current and former employees of defendants, current and former employees of PMC, their affiliates, or subsidiaries.*

1 The Court has appointed Plaintiffs MERTON MCGREW, SHIRLEY MCGREW, BOYD H.  
2 BENSON and KRISTINE J. MARSHALL as the Class Representatives of this Class and the  
3 law firm of Keller Rohrback, L.L.P. as Class Counsel.

4 C. On August 1, 2005, the Court issued the following orders: 1) Order Granting  
5 U.S. Bank, N.A.'s Motion For Partial Summary Judgment Dismissing Plaintiffs' WSSA  
6 Violations And Civil Conspiracy Claims; 2) Order Granting Defendant U.S. Bank, N.A.'s  
7 Motion For Partial Summary Judgment Dismissing Plaintiffs' Breach Of Fiduciary Duty  
8 Claims; 3) Order Denying Defendant U.S. Bank's Motion for Partial Summary Judgment  
9 Dismissing Plaintiffs' Breach of Contract Claims; 4) Order Denying Defendant U.S. Bank's  
10 Motion For Partial Summary Judgment Dismissing Plaintiffs' Claim For Damages From Loans  
11 Written Before May 20, 2002; 5) Order Granting Plaintiffs' Motion For Partial Summary  
12 Judgment Declaring That The Trust And Security Agreement Created An Express Trust For  
13 The Benefit Of The PMC Noteholders; and 6) Order Granting Plaintiffs' Motion For Partial  
14 Summary Judgment Declaring That The Trustee Had A Duty To Notify Noteholders Of Events  
15 Of Default As Defined By Section 8.1 Of The Trust And Security Agreement.

## 16 II. AGREEMENT

17 1. **Purpose.** It is agreed by the Settling Parties that all claims and defenses between  
18 Plaintiffs and U.S. Bank alleged in this Action be settled, compromised and dismissed on the  
19 merits with prejudice subject to this Court's approval of this Partial Settlement Agreement  
20 With U.S. Bank, N.A. ("Agreement") in the manner and upon the terms and conditions set forth  
21 below.

22 2. **Settlement Amount.** U.S. Bank hereby agrees to pay Three Million One Hundred  
23 Thousand Dollars (\$3,100,000) ("Settlement Amount"). U.S. Bank will pay this sum to Class  
24 Counsel, for deposit into an interest-bearing trust account, within 10 business days of the  
25 issuance of the Court's Approval Of Notice Order. The Settlement Amount plus accumulated  
26 interest shall be distributed pursuant to subsequent Court order and in accordance with the  
27 terms of this Agreement ("Settlement Fund").

1           3. **Distribution.** The distribution of the Settlement Fund shall be subject to a plan of  
2 allocation (the "Plan of Allocation") to be proposed by Class Counsel and approved by the  
3 Court. Class Counsel will propose a Plan of Allocation within thirty (30) days of the  
4 resolution of Plaintiffs' claims against all Defendants or such earlier date as Class Counsel may  
5 elect, with Court approval. All members of the Class shall receive notice of the Plan of  
6 Allocation and be given an opportunity, before any of the Settlement Fund is distributed, to  
7 object and be heard at a hearing where the Court decides whether to approve the Plan of  
8 Allocation. Interest earned on the Settlement Amount shall be applied to the expenses of  
9 settlement administration, if any, or otherwise shall accrue to the benefit of the Class. The Plan  
10 of Allocation shall also include payments to the Class Representatives to compensate them for  
11 their efforts in pursuing this action on behalf of the Class, in addition to their share of the  
12 Settlement Fund. U.S. Bank shall have no responsibility for the allocation and distribution of  
13 the Settlement Fund and shall have no liability to Plaintiffs for such allocation and distribution.  
14 U.S. Bank shall not take any position with respect to the Plan of Allocation, and instead will  
15 leave the matter to the sound discretion of the Court.

16           4. **Notice Approval Order.** As soon as practicable, Plaintiffs shall file a motion for  
17 approval of the notice of this settlement seeking entry of the Order Approving Notice Of Partial  
18 Settlement Of Class Action And Scheduling A Final Settlement Hearing ("Notice Approval  
19 Order"), a copy of which is attached hereto as Exhibit A. Plaintiffs shall propose that the Court  
20 schedule the hearing for final approval within 30 days of the date of Preliminary Approval.

21           5. **Notice of Settlement.** The Settling Parties agree to the content of the Notice of  
22 Partial Settlement of Class Action ("Settlement Notice") attached hereto as Exhibit B. The  
23 parties agree that the Settlement Notice shall be sent by first class, postage prepaid, to the last  
24 known address of each Class Member as maintained by Class Counsel. Class Counsel shall  
25 arrange for the mailing of Settlement Notice within five (5) days of the date that the Notice  
26 Approval Order is entered. The costs of notice shall be advanced by Class Counsel. U.S. Bank  
27 shall have no responsibility for providing the notice.

1           6. **Order for Final Judgment.** At the Final Settlement Hearing, Class Counsel shall  
2 petition the Court to enter an Order for Final Judgment that finally approves this Agreement,  
3 and dismisses the claims as provided herein (“Order for Final Judgment”), a copy of which is  
4 attached hereto as Exhibit C. The Parties agree that Final Judgment shall be entered in  
5 accordance with that Order.

6           7. **Released Claims.** Plaintiffs and U.S. Bank (as defined above) release each other,  
7 including their parents, affiliates, subsidiaries, directors, officers, employees, agents, and  
8 attorneys from any and all claims and defenses related in any way to the facts and allegations  
9 underlying the Action, including but not limited to any and all claims (whether accrued or not,  
10 whether known or unknown, whether in law or equity) asserted, or that could have been  
11 asserted, in the *Consolidated and Amended Class Action Complaint* (“Complaint”) or that  
12 would be barred by principles of *res judicata* had the claims asserted in the Complaint been  
13 fully litigated and resulted in a final judgment (collectively the “Released Claims”). U.S. Bank  
14 further releases the PMC Investment Trust, including its trustees, from any and all claims. U.S.  
15 Bank agrees to waive and release any claims whatsoever (including but not limited to claims  
16 for contribution or indemnity), against Harris Bank, N.A., successor-in-interest to Northwestern  
17 Trust and Investors Advisory Company, and the parents, affiliates, subsidiaries, directors,  
18 officers, employees, agents, and attorneys of Northwestern Trust and Harris Bank, N.A.  
19 (“Harris Bank”) to recover or seek reimbursement for any part of the amount(s) paid in this  
20 Agreement, or to recover any costs or fees related to the Action. Nothing in the Agreement  
21 releases or shall be deemed to release any claim against Gary Craig or Craig and Associates  
22 (the “Non-Settling Defendants”). Nothing in this Agreement shall be construed to limit  
23 Plaintiffs’ ability to assert claims or seek to recover damages from the Non-Settling  
24 Defendants.

25           8. **The Bar Order.** The Court shall include in the Final Order a *Bar Order* that meets  
26 all of the following requirements:  
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- 1 a Bars all claims against U.S. Bank (including but not limited to claims for contribution  
2 and/or indemnity) arising out of the Action and bars any other claims arising out of the  
3 Released Claims, including any claims relating to the payment of the Settlement  
4 Amount (the “Barred Claims”);
- 5 b Permanently enjoins any person or entity receiving notice of the Settlement Notice, or  
6 having actual knowledge of the Settlement Notice, or having actual knowledge of  
7 sufficient facts that would cause such person or entity to be charged with constructive  
8 notice of the Settlement Notice (collectively, the “Barred Persons”) from bringing,  
9 either derivatively or on behalf of themselves, or through any person or entity  
10 purporting to act on their behalf or purporting to assert a claim under or through them,  
11 any Barred Claims against U.S. Bank in any forum, action or proceeding of any kind;
- 12 c Provides that nothing in this Agreement or in the Bar Order shall in any manner limit  
13 any liability applicable to any Non-Settling Defendant as to the portion of any judgment  
14 against such Non-Settling Defendant in the Action remaining;
- 15 d Provides that the members of the Class shall be permanently enjoined from bringing  
16 any Released Claim against U.S. Bank, either derivatively or on behalf of themselves,  
17 or through any other person or entity purporting to act on their behalf or purporting to  
18 assert a Released Claim under or through them, in any forum, action or proceeding of  
19 any kind;
- 20 e Provides that U.S. Bank shall be permanently enjoined from bringing any Released  
21 Claim against any member of the Class or Class Counsel, either derivatively or on  
22 behalf of itself, or through any person or entity purporting to act on its behalf or  
23 purporting to assert a Released Claim under or through it, in any forum, action or  
24 proceeding of any kind, including, without limitation, any claim or right of any kind  
25 whatsoever, based upon or derived from the Settlement Agreement dated February 27,  
26 2004 which was approved by the Order Granting Debtor’s Motion For Approval Of  
27 Settlement Agreement Among Debtor, Official Secured Creditors’ Committee, U.S.

1 Bank, N.A., and Harris Bank, N.A, entered by the Bankruptcy Court for the Western  
2 District of Washington at Seattle on March 17, 2004 in Bankruptcy Case No. 03-22404.

3 9. **Defenses to Barred Person Claims.** Nothing herein shall be deemed to create or  
4 acknowledge the existence or validity of any claim of the Barred Persons or limit any defense  
5 to such a claim.

6 10. **Agreement Not To Appeal Harris Settlement.** U.S. Bank agrees to waive and  
7 release all of its objections to the Partial Settlement Agreement with Harris Bank and agrees  
8 not to appeal the Order For Entry Of Final Judgment On Plaintiffs' Claims Against Harris Bank  
9 (entered on August 1, 2005) and/or any judgment entered pursuant to that order.

10 11. **Award of Attorneys' Fees and Costs.** Pursuant to the common fund doctrine, Class  
11 Counsel will, at an appropriate time, apply to the Court for an award of attorneys' fees and for  
12 reimbursement of expenses to be paid from the Settlement Fund. U.S. Bank shall take no  
13 position with respect to the amount of attorneys' fees and costs sought by Class Counsel and  
14 shall leave the matter to the sound discretion of the Court. Such attorneys' fees and costs as  
15 approved by the Court shall be deducted from the Settlement Fund.

16 12. **Effect of Court Disapproval.** In the event the Court or any other court (a)  
17 disapproves, sets aside, or modifies this Agreement, (b) declines for any reason to enter or give  
18 effect to a Notice Approval Order, (c) declines for any reason to enter or give effect to an Order  
19 for Final Judgment, or (d) holds that the Order for Final Judgment, or any judgment entered  
20 pursuant thereto, should in any material part be overturned or modified in any material way,  
21 then the Settling Parties shall negotiate in good faith in order to modify the terms of the  
22 Settlement Agreement in an attempt to revive the Settlement. In the event that such efforts are  
23 not successful, this Agreement shall become null and void, the Settling Parties shall be deemed  
24 to revert to their status as of the date and time immediately prior to the execution of this  
25 Agreement, and the Settling Parties shall jointly move that any and all orders entered pursuant  
26 to this Agreement be vacated and shall proceed with the Action as if this Agreement had never  
27 been executed. However, in the event that the Settling Parties, within fifteen (15) calendar days

1 of any such action of any court, jointly elect to appeal from or otherwise seek review or  
2 reconsideration of such court action, this Agreement shall not be deemed null and void until  
3 such time as such court action becomes final after any proceedings arising directly or indirectly  
4 from the Settling Parties' appeal(s) or other attempt(s) to have such court action reversed,  
5 withdrawn, or overturned. In the event this Agreement becomes null and void for any reason,  
6 the Settlement Amount plus any accrued interest on the Settlement Amount must be  
7 immediately returned to U.S. Bank.

8 13. **Time Periods.** The time periods and/or dates described in this Agreement are subject  
9 to approval by the Court, or may be changed by written agreement of the Settling Parties.

10 14. **Effective Date of Settlement.** The settlement contemplated by this Agreement shall  
11 be deemed effective, and the Settling Parties and members of the Class shall be definitively  
12 bound thereto, three (3) calendar days after the Court in the Action has entered an Order for  
13 Final Judgment, finally approving this Agreement, as provided in Section 6, above, and the  
14 Order for Final Judgment has become final (the "Effective Date"). The date the Order for Final  
15 Judgment becomes "final" is thirty (30) days after entry of the Order for Final Judgment if no  
16 appeal is taken from the Order. If an appeal is taken, or other review or reconsideration is  
17 sought, the Order for Final Judgment becomes "final" the day after the latest of (i) the date on  
18 which the mandate issues, (ii) the date on which the appeal or other petition for review or  
19 reconsideration is dismissed, or (iii) the date on which subsequent appellate or review  
20 proceedings are complete.

21 15. **Jurisdiction and Rules of Construction.** Nothing in the Agreement, including  
22 without limitation Plaintiffs' release of claims against U.S. Bank, shall in any way operate or be  
23 construed to release any of Plaintiffs' claims against Non-Settling Defendants, predicated on  
24 their own actions, inaction, or omissions, including without limitation Plaintiffs' claims for  
25 violation of the WSSA as sellers and control persons. The Settling Parties agree that the Court  
26 shall retain exclusive jurisdiction to resolve any disputes or challenges that may arise as to the  
27 performance of this Agreement or any challenges as to the performance, validity, interpretation,

1 administration, enforcement or enforceability of the Settlement Notice, the Agreement, or the  
2 termination of this settlement. None of the parties to this Agreement shall be considered the  
3 drafter of this Agreement or any provision hereof for the purpose of any rule of construction  
4 that would or might cause any provision to be construed against the drafter thereof.

5 16. **No Admissions.** The Settling Parties agree that the Agreement is a compromise of  
6 disputed claims, and that nothing in this Agreement shall be an admission of, or constitute a  
7 finding of, liability. This Agreement shall not be offered or received in evidence in this suit or  
8 any other action for any purpose other than enforcement of the Agreement.

9 17. **Entire Agreement.** This Agreement constitutes the full and entire agreement and  
10 understanding of and between the parties with regard to the settlement and compromise of the  
11 Action and supersedes all oral and written understandings, agreements, and proposals  
12 concerning the matters described herein. All agreements, covenants, representations, and  
13 warranties, express or implied, oral or written, of the parties concerning the subject matter of  
14 this Agreement are contained herein. All prior and contemporaneous conversations,  
15 negotiations, possible and alleged agreements, representations, covenants, and warranties  
16 between the parties are merged herein. No party is relying upon any statement or  
17 representation not specified in this Agreement.

18 18. **Washington Law.** This Agreement shall be interpreted in accordance with the law of  
19 the State of Washington, without giving effect to its conflict of laws provisions.

20 19. **Execution in Counterparts.** This Agreement may be executed in one or more  
21 counterparts and delivered by facsimile to counsel. All executed counterparts, including those  
22 delivered to counsel by facsimile, and each of them shall be deemed to be one and the same  
23 instrument, provided that counsel for the undersigned parties shall exchange among themselves  
24 original signed counterparts.

25 20. **Modifications Only in Writing and Authorization of Class Counsel.** This  
26 Agreement may be amended or modified only by a written instrument signed by all of the  
27 undersigned parties or their successors-in-interest, except that the Class Representatives,



1 individually and as class representatives, expressly authorize Class Counsel to take all  
2 appropriate action required or permitted to be taken by the Class pursuant to this Agreement to  
3 effectuate its terms, and also expressly authorize Class Counsel to enter into such modifications  
4 or amendments to this Agreement on behalf of the Class as Class Counsel deem appropriate.

5 21. **Exhibits Incorporated by Reference.** Each and every exhibit to this Agreement is  
6 incorporated herein by this reference as though fully set forth herein.

7 22. **Legal Representation.** The Settling Parties acknowledge that they have been  
8 represented by qualified legal counsel both in connection with the Action and in connection  
9 with the negotiation, drafting, and execution of this Agreement. Accordingly, the language  
10 used in this Agreement will be deemed to be language chosen by all parties hereto to express  
11 their mutual intent, and no rule of strict construction against any party hereto will apply to any  
12 term or condition of this Agreement.

13 23. **Best Efforts.** The Settling Parties agree to cooperate in the execution of such  
14 documents and pleadings as are reasonably necessary and appropriate to obtain approval of and  
15 implementation of this Agreement, and to use their best efforts to perform all terms of this  
16 Agreement.

17 24. **Authority.** Any person or entity signing this Agreement in a representative capacity  
18 represents and warrants that the person or entity has complete and unconditional authority to  
19 execute this Agreement on behalf of the party that the person or entity is purporting to bind.

20 DATED this \_\_\_\_\_ day of August, 2005.

21 U.S. BANK., N.A.

22  
23 By: \_\_\_\_\_  
Its President

24 DATED this \_\_\_\_\_ day of August, 2005.

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MERTON MCGREW

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DATED this \_\_\_\_\_ day of August, 2005.

\_\_\_\_\_  
SHIRLEY MCGREW

DATED this \_\_\_\_\_ day of August, 2005.

\_\_\_\_\_  
BOYD H. BENSON

DATED this \_\_\_\_\_ day of August, 2005.

\_\_\_\_\_  
KRISTINE J. MARSHALL

APPROVED AS TO FORM:

DATED this \_\_\_\_\_ day of August, 2005.

DORSEY & WHITNEY, LLP

By \_\_\_\_\_  
Peter Ehrlichman, WSBA #6591  
Attorneys for Defendant U.S. Bank, N.A.

APPROVED AS TO FORM:

DATED this \_\_\_\_\_ day of August, 2005.

KELLER ROHRBACK L.L.P.

By \_\_\_\_\_  
Lynn Lincoln Sarko, WSBA #16569  
Mark A. Griffin, WSBA #16296  
John H. Bright, WSBA #2833  
Frederick W. Schoepflin, WSBA #19060  
Raymond J. Farrow, WSBA # 31782

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ELLIOTT BAY LAW GROUP, P.C.

By \_\_\_\_\_  
Stuart Heath WSBA #14372

Attorneys for Plaintiff Class