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*Attorneys for Plaintiffs Erika Maldonado and Cynthia Soriano*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE**

ERIKA MALDONADO and CYNTHIA  
SORIANO,

Plaintiffs,

v.

BROKER SOLUTIONS, INC. d/b/a/ NEW  
AMERICAN FUNDING; and DOES 1  
through 5,

Defendants.

Case No. 30-2020-01175149-CU-OE-CJC

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' UNOPPOSED  
MOTION FOR APPROVAL OF PAGA  
SETTLEMENT**

Date: 2-24-22

Time: 2:00 p.m.

Dept.: CX102

CIVIL COMPLEX CENTER  
751 W. SANTA ANA BLVD.  
SANTA ANA, CA 92701

Hon. Judge Peter Wilson

Plaintiffs ERIKA MALDONADO and CYNTHIA SORIANO filed an Unopposed  
Motion for Approval of Private Attorneys General Act ("PAGA") Settlement.

The Court having reviewed the Motion for Approval of PAGA Settlement, the Parties'

1 fully executed PAGA Settlement (attached as Exhibit A), the parties' proposed form of notice to  
2 the aggrieved employees (attached as Exhibit B), the papers, the arguments of counsel, and all  
3 other evidence and matters presented, and good cause appearing:

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Plaintiffs'  
5 Unopposed Motion for Approval of PAGA Settlement is **GRANTED**, subject to the following  
6 findings and orders:

7 1. All terms used herein shall have the same meaning as defined in the Settlement  
8 Agreement.

9 2. The Court approves the terms set forth in the Settlement Agreement for settlement  
10 of PAGA claims in accordance with Labor Code Section 2699(1)(2), and finds that the  
11 Agreement is in all respects, fair, reasonable, and adequate and directs the Parties to effectuate  
12 the PAGA settlement according to the terms set forth in the Settlement Agreement.

13 3. The Court's finding that the settlement is fair, reasonable, and adequate is  
14 supported by the relative strengths and weaknesses of each claimed Labor Code violation, the  
15 estimated value of those claimed violations, and the estimated range of recovery, if any.

16 4. Although Plaintiffs continue to believe in the strength of their case, they  
17 acknowledge that there are potential weaknesses. First, Plaintiffs' claims for unpaid wages,  
18 overtime, meal and rest period violations, accurate wage statements, and prompt payment all  
19 hinge on their theory that Defendant misclassified its mortgage loan officers as outside  
20 salespersons. (See Labor Code § 1171; IWC Wage Order No. 7-2001(1)(C).) If Plaintiffs were  
21 unable to establish that the mortgage loan officers were misclassified, all those claims would be  
22 subject to dismissal. (See *Romano v. Sci Direct, Inc.* (C.D. Cal. Mar. 21, 2018) 2018 U.S. Dist.  
23 LEXIS 47723, \*19.) Even if Plaintiffs did prevail on this issue, their arguments may have  
24 applied to some, but not all, aggrieved employees, which could result in their claims failing for  
25 "manageability" reasons. (See *Wesson v. Staples the Office Superstore* (2021) 68 Cal. App. 5th  
26 746, 765–66.) Second, the strengths and weaknesses of Plaintiffs' claim for unreimbursed  
27 business expenses also favors approval. Employers must reimburse "employee[s] for all  
28 necessary expenditures or losses incurred by the employee in direct consequence of the discharge

1 of his or her duties.” (Labor Code § 2802(a).) But the question whether an expense was  
2 “necessary” turns “on the reasonableness of the employee’s choices.” (*Gattuso v. Harte-Hanks*  
3 *Shoppers, Inc.* (2007) 42 Cal.4th 554, 568.) And defendants are still only liable if they “kne[ew]  
4 or ha[d] reason to know that the employee had incurred a reimbursable expense.” (*Stuart v.*  
5 *Radioshack Corp.* (N.D. Cal. 2009) 641 F. Supp. 2d 901, 903.) Given the fact-bound nature of  
6 this issue, there is a real risk of these claims could be stricken on manageability grounds. (See  
7 *Wesson, supra*, 68 Cal. App. 5th at 765–66.)

8         5.         The Court also finds the settlement is fair, reasonable, and adequate when  
9 comparing those strengths and weaknesses to the estimated value of the claimed violations.  
10 Plaintiffs represent that their eight claimed violations are applicable to 11,620 shifts by aggrieved  
11 employees during the Release Period. Employers that violate the Labor Code are subject to civil  
12 penalties in the amount of “one hundred dollars (\$100) for each aggrieved employee per pay  
13 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per  
14 pay period for each subsequent violation.” (Labor Code § 2699(f)(2).) Therefore, the claimed  
15 violations are individually worth a maximum of \$1,162,000 and are collectively worth up to  
16 \$9,296,000. However, the aggrieved employees could recover much less, because courts have  
17 the power to reduce PAGA penalties, and they often do. (See *Carrington v. Starbucks Corp.*  
18 (2018) 30 Cal. App. 5th 504, 529.) Moreover, Defendant has argued that PAGA penalties cannot  
19 be “stacked.” If Defendant is correct about the stacking issue, the maximum penalty would be  
20 only \$1,162,000. Therefore, even assuming Plaintiffs prevailed on all their claims, their total  
21 recovery could be significantly reduced.

22         6.         Defendant shall deposit a settlement sum of \$600,000 with the Settlement  
23 Administrator.

24         7.         From that settlement sum, the Settlement Administrator shall make the following  
25 disbursements: \$8,000 to the Settlement Administrator as compensation for its services;  
26 \$200,000 to Plaintiffs’ counsel as attorney fees; \$9,349 to Plaintiffs’ counsel as reimbursement  
27 for litigation expenses; \$5,000 to Plaintiff Erika Maldonado as an enhancement payment; and  
28 \$5,000 to Plaintiff Cynthia Soriano as an enhancement payment.

1           8.       As to the attorneys' fees and litigation costs, the Court finds that those amounts  
2 are reasonable in all respects. A fee award of \$200,000 represents one-third of the total fund,  
3 which is reasonable. Plaintiffs' counsel have also declared that their time spent working on this  
4 case is worth over \$213,184.50, so their lodestar confirms the reasonableness of the award.  
5 Counsel's litigation expenses are also reasonable amounts that appear to have been necessary to  
6 resolving this case.

7           9.       As to the enhancement payments, the Court finds that a \$5,000 award to each  
8 Plaintiff is reasonable. Both Plaintiffs expended effort on behalf of the aggrieved employees,  
9 including by disclosing and reviewing hundreds of pages of documents, taking time off work to  
10 participate in a full-day mediation, and assisting their attorneys in the development of the case.

11          10.      After the disbursements described in paragraph seven have been made, 75% of  
12 the remaining funds shall be disbursed to the LWDA, for a total of \$279,488.25. The remaining  
13 25% shall be disbursed to the Aggrieved Employees, for a total of \$93,162.75.

14          11      Individual aggrieved employees shall be paid a prorated share based on the  
15 number of shifts he or she worked for Defendant in California during the Release Period, divided  
16 by the total number of shifts worked by all aggrieved employees during the Release Period.

17          12.      The Settlement Administrator shall direct notice of this settlement to the  
18 aggrieved employees. The Court has reviewed the parties' proposed form of notice and finds that  
19 it is reasonable in all respects.

20          13.      The Court finds that there are no related or overlapping actions pending in any  
21 other court that this Settlement may impact.

22          14.      The Court finds that Plaintiffs served the Settlement and moving papers on the  
23 LWDA, and the LWDA has not submitted any objections.

24          15.      The Settlement Agreement is not an admission by Defendants or by any other  
25 Released Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing  
26 by Defendants or of any other Released Parties. Neither this Order, the Settlement Agreement,  
27 nor any document referred to herein, nor any action taken to carry out the Settlement Agreement,  
28 may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,

1 concession, or liability whatsoever by or against Defendants or any of the Release Parties.

2 16. The Court further orders, adjudges, and decrees that Plaintiffs and the PAGA  
3 Settlement Members have released and forever discharged the Released Parties from and  
4 regarding the Released Claims for the Release Period.

5 17. This Final Judgment is entered pursuant to the Settlement Agreement and is  
6 intended to Effectuate the settlement more fully described in the Settlement Agreement.

7 18. Pursuant to Section 6.11 of the Settlement Agreement, the Court shall have  
8 continuing jurisdiction to enforce the terms and conditions of this settlement pursuant to Code of  
9 Civil Procedure section 664.6.

10 19. The Court will hold a final accounting hearing on October 28, 2022 at 9:00 AM.  
11 Plaintiffs are ordered to submit a final report at last five days in advance of the hearing. The  
12 report shall include the actual amounts paid to aggrieved employees and the other amounts  
13 distributed under the settlement, including uncashed checks.

14 **IT IS SO ORDERED ADJUDGED AND DECREED.**

15 The Clerk of the Court is hereby ordered to enter this Judgment.

16  
17 Date:

\_\_\_\_\_  
18 Honorable Judge of the  
19 Superior Court  
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# EXHIBIT A

**PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)**  
**SETTLEMENT AGREEMENT**

***Erika Maldonado and Cynthia Soriano v. Broker Solutions, Inc. dba New American Funding (Orange County Superior Court Case No. 30-2020-01175149-CU-OE-CJC)***

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action will be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein will have the meanings set forth in Article I or elsewhere in this Private Attorneys General Act (*Labor Code* § 2698 *et seq.*) Settlement Agreement (“Settlement” or “Settlement Agreement”).

This Settlement Agreement is made by and between Defendant Broker Solutions, Inc. dba New American Funding (“Defendant”) and Plaintiffs Erika Maldonado and Cynthia Soriano (“Plaintiffs”), for themselves and on behalf of the State of California (collectively, the “Parties”).

The Parties agree that the action entitled *Erika Maldonado. et al. v. Broker Solutions, Inc.*, Orange County Superior Court, Case Number 30-2020-01175149-CU-OE-CJC (the “Action”) will be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendant to pay the total sum of Six Hundred Thousand Dollars (\$600,000) (the “Settlement Sum”) for settlement of the Private Attorneys General Act (“PAGA”) penalties, which will be inclusive of Attorneys’ Fees and Costs to Plaintiffs’ Counsel, Enhancement Payments to Plaintiffs, and Administration Costs to the Settlement Administrator.

**Article I.**

**Definitions.**

**Section 1.01    Definitions.**

Unless otherwise defined herein, the following terms used in this Settlement Agreement will have the meanings ascribed to them as set forth below:

- (a) “Aggrieved Employees” means all current or former California employees of Defendant classified as exempt pursuant to the outside sales exemption at any time during the Release Period. Defendant represents that, as of June 2021, the number of Aggrieved Employees was approximately 381, who worked a total of 11,620 Pay Periods during the Release Period.
- (b) “Complaint” means the Complaint for Enforcement Under the Private Attorney General Act, California Labor Code § 2698, Et Seq filed by Plaintiffs on December 18, 2020 in Orange County Superior Court, Case No. 30-2020-01175149-CU-OE-CJC.
- (c) “Court” means the Superior Court for the State of California, County of Orange.
- (d) “Defense Counsel” or “Counsel for Defendant” is:

Todd R. Wulffson, Esq.  
Amy S. Williams, Esq.  
Ashley A. Halberda, Esq.  
CDF Labor Law LLP  
18300 Von Karman Avenue, Suite 800  
Irvine, California 92612

(e) "Effective Date" means the date the Court enters the order approving the settlement of the PAGA penalties as described in this Settlement Agreement.

(f) "Plaintiffs' Counsel" is:

Babak Semnar, Esq.  
Jared R. Hartman, Esq.  
SEMNAR HARTMAN  
41707 Winchester Road, Suite 201  
Temecula, CA 92590

Matthew R. Wilson, Esq.  
Michael J. Boyle, Jr., Esq.  
MEYER WILSON CO., LPA  
305 W. Nationwide Blvd.  
Columbus, OH 43215

(g) "Release Period" means the time period from October 2, 2019 through the Effective Date.

(h) "Released Claims" means all claims for PAGA civil penalties, which occurred during the Release Period, pursuant to Labor Code Section 2698 *et seq.* alleged or that could have been alleged based on the allegations asserted in the Complaint on behalf of the Aggrieved Employees including, but not limited to, claims for the failure to pay all wages, the failure to pay minimum wage, the failure to pay overtime wages, unreimbursed business expenses, failure to provide compliant meal periods and/or pay meal period premiums, failure to authorize and permit compliant rest periods and/or pay rest period premiums, failure to provide and maintain accurate wage statements, failure to pay timely wages at termination of employment, failure to timely pay wages during employment, including but not limited to claims arising under California *Labor Code* sections 201-204, 205.5, 210, 218.5, 218.6, 221, 223, 225.5, 226, 226.3, 226.7, 246, 247.5, 510, 512, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, 2699 *et seq.*, 2800, 2802; Cal. Code of Regulations, Title 8, Section 11040, the applicable Industrial Welfare Commission Wage Orders, and the *Business & Professions Code* §17200, *et seq.* as it relates to the underlying *Labor Code* claims referenced above and permissible pursuant to *Labor Code* Section 2699, *et seq.*, and California *Code of Civil Procedure* § 1021.5 to the extent permissible pursuant to *Labor Code* Section 2699, *et seq.*, interest, attorneys' fees and costs..

- (i) "Released Parties" means Defendant and all its present and former parent corporations, affiliates, subsidiaries, divisions, predecessors, insurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, and any other individual or entity which could be liable for any of the Released Claims in the Action.

## **Article II.**

### **Background.**

#### **Section 2.01   Background.**

- (a) On or about October 2, 2020 Plaintiffs submitted a letter to the California Labor and Workforce Development Agency ("LWDA") to notify the LWDA pursuant to PAGA of Plaintiffs' intent to seek civil penalties under PAGA and all other remedies available under PAGA for Defendant's alleged violations of various provisions of the California Labor Code and all applicable Industrial Welfare Commission Wage Orders.
- (b) On December 18, 2020, Plaintiffs filed the Complaint in the Superior Court of the State of California for the County of Orange on a representative basis under PAGA on behalf of Plaintiffs, the State of California and other allegedly aggrieved employees, based on alleged violations of various provisions of the California Labor Code and all applicable Industrial Welfare Commission Wage Orders.
- (c) On June 21, 2021, the Parties mediated the Action during a full-day mediation with mediator Joel Grossman, Esq.
- (d) Through this Action, the Parties have engaged in informal discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the Action and potential defenses thereto. The Parties have reached this Settlement only after sufficient discovery and investigation was performed.
- (e) This Settlement contemplates the (a) entry of an order by the Court approving the Settlement; (b) dismissal of the Action with prejudice; and (c) all parties bearing their respective fees and costs except as expressly provided by this Settlement Agreement.

## **Article III.**

### **Approval and Implementation of Settlement.**

#### **Section 3.01   Cooperation.**

The Parties will cooperate in obtaining an order from the Court approving this Settlement and distribution of the Settlement Sum as described in Section 3.04 herein. The Parties will seek

to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiffs' Counsel.

Plaintiffs' Counsel shall request and be paid one-third (33.33%) of the Settlement Sum, or Two Hundred Thousand Dollars (\$200,000) for attorneys' fees and an amount not to exceed Ten Thousand Dollars (\$10,000) for reimbursement of actual litigation costs (together, "Attorneys' Fees and Costs") from the Settlement Sum, and Defendant will not oppose these requests. Plaintiffs shall request and be paid from the Settlement Sum Five Thousand Dollars (\$5,000) each as enhancement payments ("Enhancement Payments"), and Defendant will not oppose this request. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of the distribution of the Settlement Sum as described in this Settlement Agreement.

#### Section 3.02 Interim Stay of Proceedings

The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement Agreement, pending the Court's approval of the Settlement Agreement.

#### Section 3.03 Court Approval.

The Parties will seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiffs' Counsel. Plaintiffs' Counsel and Defense Counsel will jointly lodge this Settlement Agreement with the Court for its approval. The Court's approval of the payment of the Settlement Sum as described herein will be embodied in a written order.

#### Section 3.04 Deposit of Settlement Sum with Settlement Administrator

- (a) The Parties agree to retain Simpluris to serve as the settlement administrator ("Settlement Administrator"). The Parties each represent they do not have a financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that creates or could create a conflict of interest.
- (b) No later than thirty (30) calendar days after the Effective Date, Defendant shall deposit the Settlement Sum with the Settlement Administrator.

#### Section 3.05 Settlement Payments.

- (a) Payment to the Aggrieved Employees and the LWDA.

Payment will be provided to the Aggrieved Employees in the following manner:

- (1) No later than thirty (30) calendar days after the Effective Date, Defendant will provide to the Settlement Administrator a list in Microsoft Excel format containing each Aggrieved Employee's (i) full name, (ii) last known mailing address, (iii) Social Security number, and (iv) dates worked for Defendant in California during the Release Period ("Settlement List").
- (2) Within fifteen (15) calendar days of receipt of the Settlement List, the Settlement Administrator will update the mailing addresses contained in the Settlement List using the NCOA database and mail the Individual Settlement Payments (defined below) to the Aggrieved Employees.
- (3) The Settlement Administrator shall concurrently submit the LWDA Payment (defined below) to the LWDA.
- (4) For each Individual Settlement Payment that is returned as undeliverable, the Settlement Administrator will perform a skip-trace search to locate an updated mailing address for the Aggrieved Employee, and re-mail the Notice and Individual Settlement Payment within five (5) calendar days.
- (5) All costs incurred by the Settlement Administrator in connection with the current Settlement, including mailing of the Notice described herein ("Administration Costs") will be paid out of the Settlement Sum. Administration Costs are not expected to exceed Eight Thousand Dollars (\$8,000); to the extent they exceed this amount, they will be paid from the Net Settlement Amount (as defined herein); to the extent they fall below this amount, the difference will be added to the Net Settlement Amount.

Section 3.06 Settlement Payment Procedures.

(a) Payment of PAGA Penalties.

The total sum available for payment of PAGA penalties will be calculated by deducting Attorneys' Fees and Costs (\$200,000 and \$10,000, respectively), Enhancement Payments (\$10,000), and Administration Costs (\$8,000) from the Settlement Sum ("Net Settlement Amount"). The Net Settlement Amount is estimated to be approximately Three Hundred Seventy-Two Thousand and Two Hundred Dollars (\$372,000).

Seventy-five percent (75%) of the Net Settlement Amount will be paid to the LWDA ("LWDA Payment"); the remaining twenty-five percent (25%) of the Net Settlement Amount ("Employee Net Settlement Amount") will be paid to the Aggrieved Employees *pro rata* based on the number of weeks each of them worked during the Release Period ("Pay Period(s)"). Pay Periods will be calculated based on the number of pay periods an employee worked for Defendant as a non-exempt employee in California October 2, 2019 to the date the Court enters the order approving this Settlement. All Aggrieved Employees will be credited with at least one Pay Period.

The Settlement Administrator will calculate each Aggrieved Employee's Individual Settlement Payment as follows:

- The Settlement Administrator will determine the number of Pay Periods worked by each Aggrieved Employee based on the dates of employment provided in the Settlement List.
- The Settlement Administrator will divide each Aggrieved Employee's individual number of Pay Periods by the total aggregate number of Pay Periods for all Aggrieved Employees.
- The Settlement Administrator will multiply the resulting amount by the Employee Net Settlement Amount to yield each Aggrieved Employee's Individual Settlement Payment.

**One hundred percent (100%) of the Individual Settlement Payments are considered penalties and will not be subject to local, state or federal tax withholdings.** All Aggrieved Employees who cash their Individual Settlement Payment check may receive an IRS Form 1099 for their Individual Settlement Payment, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

The expiration date on the Individual Settlement Payment checks will be one hundred eighty (180) calendar days from the date the settlement checks are issued. If any Aggrieved Employee does not cash or deposit his/her settlement check within one hundred eighty (180) calendar days, the check will be void and the uncashed funds associated with each settlement check will escheat to the State Controller to be deposited in the California Unclaimed Property Fund in the Aggrieved Employee's name.

**(b) Attorneys' Fees and Costs and Enhancement Payment.**

Within fifteen (15) calendar days after receipt of the Settlement Sum, the Settlement Administrator shall distribute the Attorneys' Fees and Costs to Plaintiffs' Counsel and the Enhancement Payments to Plaintiffs.

**(c) Settlement Administrator Expenses.**

Within five (5) business days following the distribution of Attorneys' Fees and Costs to Plaintiffs' Counsel, Enhancement Payments to Plaintiffs, LWDA Payment to the LWDA, and the Employee Net Settlement Amount to Aggrieved Employees, the Settlement Administrator shall pay the Administration Costs to itself for its administration fees.

**Article IV.**

**Limitations on Use of This Settlement.**

**Section 4.01 No Admission.**

This Settlement Agreement and compliance with this Settlement Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as admission by Defendant

of any violations of Plaintiffs' or the Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiffs, the Aggrieved Employees, or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

**Section 4.02 Non-Evidentiary Use.**

Neither this Settlement Agreement nor any of its terms will be offered or used as evidence by any of the Parties, or their respective counsel in the Action or in any other action or proceeding; provided, however, this will not prevent this Settlement Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Settlement Agreement.

**Section 4.03 Nullification.**

(a) If the Court should for any reason fail to approve the payment of PAGA penalties as described in this Settlement Agreement, then, at the sole discretion of Defendant (a) this Settlement Agreement shall be considered null and void, (b) neither this Settlement Agreement nor any of the related negotiations or proceedings will be of any force or effect, and (c) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court.

(a) Invalidation of any material portion of this Settlement Agreement will, at the sole discretion of Defendant, invalidate this Settlement Agreement in its entirety.

**Article V.**

**Release and Waiver of Claims.**

**Section 5.01 Release by Aggrieved Employees.**

Upon the Effective Date of this Settlement Agreement, Plaintiffs, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the Release Period.

**Article VI.**

**Miscellaneous Provisions.**

**Section 6.01 Voluntariness.**

This Settlement Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

#### Section 6.02 Amendments.

The terms and provisions of this Settlement Agreement may be amended only by a written agreement that is (a) signed by both Parties or their counsel, and (b) approved by the Court. Any waiver of any provision of this Settlement Agreement will not constitute a waiver of any other provision of this Settlement Agreement unless expressly so indicated otherwise.

#### Section 6.03 Assignment.

None of the rights, commitments, or obligations recognized under this Settlement Agreement may be assigned by any Party, Aggrieved Employee, Plaintiffs' Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Settlement Agreement are for the sole benefit of the Parties under this Settlement Agreement, and will not be construed to confer any right or to avail any remedy to any other person. Plaintiffs expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Settlement Agreement.

#### Section 6.04 Governing Law.

This Settlement Agreement will be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

#### Section 6.05 Entire Agreement.

This Settlement Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Settlement Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

#### Section 6.06 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiffs' Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

#### Section 6.07 Counterparts.

This Settlement Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts taken together will constitute but one and the same instrument. It will not

be necessary in making proof of this Settlement Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 6.08 Attorneys' Fees and Costs.

Except as expressly provided herein, Defendant and Plaintiffs shall each bear their own attorney's fees and costs.

Section 6.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Settlement Agreement, the Parties agree to submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Settlement Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 6.10 Binding.

This Settlement Agreement will bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.11 Continuing Jurisdiction.

The Parties agree that upon the occurrence of the dismissal of this case pursuant to the terms of this Settlement Agreement, this Settlement Agreement will be enforceable by the Court pursuant to *Code of Civil Procedure* Section 664.6 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligation of the Settlement Agreement.

Section 6.12 No Public Disclosure.

Except as necessary to obtain Court approval, Plaintiffs and Plaintiffs' Counsel will not make any public disclosure of this Settlement. Plaintiffs' Counsel will take all steps necessary to ensure Plaintiffs are aware of, and will encourage them to adhere to, the restriction against any public disclosure of this Settlement. Plaintiffs' Counsel will not include, use or comment upon the settlement for any marketing or promotional purposes.

Plaintiffs and Plaintiffs' Counsel will not initiate any communications with and, if contacted by the media, will only discuss information publicly available. Plaintiffs' Counsel will take all steps necessary to ensure Plaintiffs are aware of, and will encourage them to adhere to, the restriction against initiating any media comment. Plaintiffs' Counsel further agrees not to use the settlement of the Action or any of their terms for any marketing purposes. Nothing herein will restrict Plaintiffs' Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Plaintiffs' Counsel's qualifications and experience.

Section 6.13 Right to Reopen Proceedings.

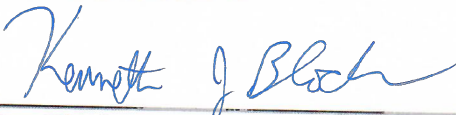
The Parties agree that, in the event the Settlement is not approved by the Court, or if the Settlement is terminated by either Party under the provisions of the long-form Settlement and Release of PAGA Claim, the Parties will request that the Court reopen proceedings within thirty (30) calendar days.

**IN WITNESS WHEREOF**, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

*[Signatures on next page]*

Dated: November 24, 2021

BROKER SOLUTIONS, INC. dba NEW  
AMERICAN FUNDING

By:   
Ken Block  
General Counsel

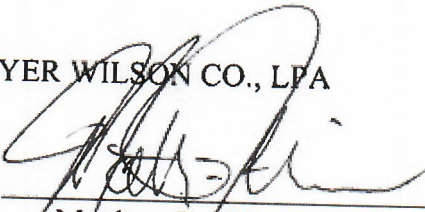
Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
ERIKA MALDONADO

Dated: Nov 8, 2021

  
CYNTHIA SORIANO

Dated: Nov. 8, 2021

MEYER WILSON CO., LPA  
By:   
Matthew R. Wilson, Counsel for  
Plaintiffs Erika Maldonado and Cynthia  
Soriano

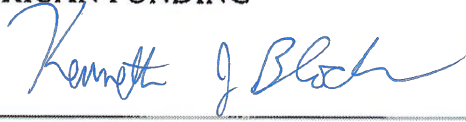
Dated: \_\_\_\_\_, 2021

CDF LABOR LAW LLP

By: \_\_\_\_\_  
Amy S. Williams, Counsel for Defendant  
Broker Solutions, Inc. dba New American  
Funding

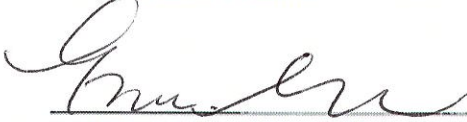
Dated: November 24, 2021

BROKER SOLUTIONS, INC. dba NEW  
AMERICAN FUNDING

By: 

Ken Block  
General Counsel

Dated: Nov 8, 2021

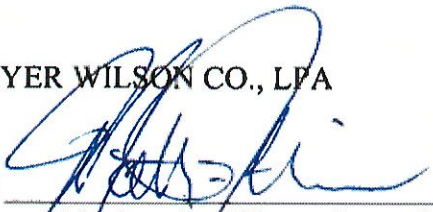
  
ERIKA MALDONADO

Dated: \_\_\_\_\_, 2021

CYNTHIA SORIANO

Dated: Nov. 8, 2021

MEYER WILSON CO., LPA

By: 

Matthew R. Wilson, Counsel for  
Plaintiffs Erika Maldonado and Cynthia  
Soriano

Dated: Nov. 29, 2021

CDF LABOR LAW LLP

By: 

Amy S. Williams, Counsel for Defendant  
Broker Solutions, Inc. dba New American  
Funding

# EXHIBIT B

**Notice of PAGA Agreement and Release of Claims**

*Maldonado v. Broker Solutions, Inc. d/b/a New American Funding*  
 Superior Court for the County of Orange  
 Case No. 30-2020-01175149-CU-OE-CJC

CPT ID: <<ID>>  
 <<EmployeeName>>  
 <<Address1>> <<Address2>>  
 <<City>>, <<State>>, <<Zip Code>>  
 XXX-XX-<<W9SSN>>

**I. NOTICE OF PAGA SETTLEMENT**

The Superior Court for the County of Orange (the “Court”) has approved a settlement in the above-captioned action filed by Erika Maldonado and Cynthia Soriano (“Plaintiffs”).

In this lawsuit, Plaintiffs claim that Defendant Broker Solutions, Inc. d/b/a New American Funding (“NAF” or “Defendant”) did not comply with the California Labor Code when paying certain mortgage loan officers. Specifically, Plaintiffs allege that NAF: (a) failed to reimburse travel expenses, personal cellular telephone usage, and other business expenses; (b) improperly classified mortgage loan officers as “outside sales persons,” and as a result failed to pay minimum wage for meal breaks and other non-sales time, and failed to pay overtime; (c) failed to pay wages on a timely basis, with proper documentation; and (d) failed to provide prompt payment of wages and other moneys due to separated employees.

THIS IS NOT A CLASS ACTION. Instead, Plaintiffs filed suit under the Private Attorney General Act, seeking civil penalties for violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 225.5, 226, 226.3, 226.7, 223, 246, 247.5, 510, 512, 11040, 1182.12, 1194, 1194.2, 1197, 2802, and Industrial Wage Commission Order 4.

The Court has not made a determination about Plaintiffs’ allegations. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claim. NAF maintains that it was in compliance with the California Labor Code at all times and enters into this Agreement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: all current or former California employees of Defendant who were classified as exempt pursuant to the outside sales exemption at any time during the Release Period. The Release Period as defined as October 2, 2019 until [date of Court approval of settlement].

**II. CALCULATION OF INDIVIDUAL PAGA PAYMENT**

You worked <<PAY PERIODS>> during the PAGA Period. The total amount of pay periods worked by all Aggrieved Employees during the PAGA Period is 11,620.

Your Individual PAGA Payment is estimated to be <<SAMOUNT PAID TO THIS EMPLOYEE>>.

Each Individual PAGA Payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period divided by the total number of pay periods worked by all Aggrieved Employees.

### **III. RELEASE**

The Court has approved the parties' Settlement and Release Agreement ("Agreement"). By operation of the Agreement's terms, all Aggrieved Employees will release the Released Parties from any and all Released Claims.

"Released Parties" means Defendant and all its present and former parent corporations, affiliates, subsidiaries, divisions, predecessors, insurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, and any other individual or entity which could be liable for any of the Released Claims in the Action.

"Released Claims" means all claims for PAGA civil penalties, which occurred during the Release Period, pursuant to Labor Code Section 2698 et seq. alleged or that could have been alleged based on the allegations asserted in the Complaint on behalf of the Aggrieved Employees including, but not limited to, claims for the failure to pay all wages, the failure to pay minimum wage, the failure to pay overtime wages, unreimbursed business expenses, failure to provide compliant meal periods and/or pay meal period premiums, failure to authorize and permit compliant rest periods and/or pay rest period premiums, failure to provide and maintain accurate wage statements, failure to pay timely wages at termination of employment, failure to timely pay wages during employment, including but not limited to claims arising under California Labor Code sections 201-204, 205.5, 210, 218.5, 218.6, 221, 223, 225.5, 226, 226.3, 226.7, 246, 247.5, 510, 512, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2699 et seq., 2800, 2802; Cal. Code of Regulations, Title 8, Section 1040, the applicable Industrial Welfare Commission Wage Orders, and the Business & Professions Code § 17200, et seq. as it relates to the underlying Labor Code claims referenced above and permissible pursuant to Labor Code Section 2699, et seq., and California Code of Civil Procedure § 1021.5 to the extent permissible pursuant to Labor Code Section 2699, et seq., interest, attorneys' fees and costs

Upon entry of the Order approving the Agreement, any Aggrieved Employee covered by this Agreement will be barred from proceeding with any Released Claim.

### **IV. SETTLEMENT ADMINISTRATOR**

**PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**

The parties have retained Simpluris as the settlement administrator. You must inform Simpluris of any change of address to ensure receipt of your payment.

Agreement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, Simpluris will direct all unclaimed funds to the State Controller to be deposited in the California Unclaimed Property Fund in the Aggrieved Employee's name. If your check is lost or misplaced, you should contact Simpluris immediately to request a replacement.

**PROOF OF SERVICE**

Maldonado, et al. v. Broker Solutions, Inc., et al.

Case No. 30-2020-01175149-CU-OE-CJC

I am employed in the County of Riverside, State of California. I am over the age of 18 and am not a party to the within action; my business address is 41707 Winchester Road, Suite 201, Temecula, CA 92590. On the date provided below, I served the foregoing document described below on the interested parties in this action by the manner indicated below.

**PROPOSED ORDER REGARDING MOTION FOR APPROVAL OF PAGA SETTLEMENT**  
was served on:

|                                                                                                                                                                           |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Amy S. Williams<br>Carothers Disante & Freudenberger, LLP<br>18300 Von Karman Avenue, Suite 800<br>Irvine, CA 92612<br>Attorneys for Defendant,<br>Broker Solutions, Inc. |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

☒ **(BY MAIL)** – I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail in Temecula, California.

I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Temecula, California, in the ordinary course of business. I am fully aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

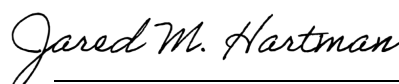
☐ **(BY FACSIMILE)** – I caused the above described document(s) to be transmitted to the offices of the interested parties at the facsimile number(s) indicated above and the activity report(s) generated by facsimile number (888) 819-8230 indicating on all pages that they were transmitted.

☐ **(BY PERSONAL SERVICE)** – I caused such envelope(s) to be delivered by hand to the office(s) of the addressee(s).

☒ **(STATE)** – I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ **(FEDERAL)** – I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. **Via Electronic Service:** If the above-described documents are a pleading filed with the Court, then such documents will be delivered electronically through the court’s ECF/PACER electronic filing system, as stipulated by all parties to constitute personal service. Otherwise, said documents will be delivered via the method checked above.

Dated: 2-15-22

  
\_\_\_\_\_  
Jared M. Hartman, Esq.