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EXHIBIT 2

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

SHARON PAGE, on Behalf of Herself
All Others Similarly Situated,

Plaintiff,

v.

IMPAC MORTGAGE HOLDINGS,
INC., JOSEPH R. TOMKINSON,
WILLIAM S. ASHMORE, JAMES
WALSH, FRANK P. FILIPPS,
STEPHAN R. PEERS, WILLIAM E.
ROSE, LEIGH J. ABRAMS,
GRETCHEN D. VERDUGO,
SHERALEE URBANO, THE IMPAC
MORTGAGE HOLDINGS, INC.
EMPLOYEE COMPENSATION AND
BENEFITS COMMITTEE, and DOES
1 through 20,

Defendants.

CASE NO.:
SACV-07-1447-AG(MLGx)

CLASS ACTION

**ORDER PRELIMINARILY
CERTIFYING A CLASS FOR
SETTLEMENT PURPOSES,
PRELIMINARILY APPROVING
PROPOSED SETTLEMENT,
APPROVING FORM AND
DISSEMINATION OF CLASS
NOTICE, AND SETTING DATE FOR
HEARING ON FINAL APPROVAL
OF SETTLEMENT**

1 FINDINGS AND ORDER PRELIMINARILY CERTIFYING A CLASS FOR
2 SETTLEMENT PURPOSES, PRELIMINARILY APPROVING PROPOSED
3 SETTLEMENT, APPROVING FORM AND DISSEMINATION OF CLASS
4 NOTICE AND SETTING DATE FOR HEARING ON FINAL APPROVAL OF
5 SETTLEMENT

6 This litigation involves claims for alleged violations of the Employee
7 Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001, et seq.
8 (“ERISA”), with respect to the Impac Companies 401(k) Savings Plan (the
9 “Plan”).

10 Presented to the Court for preliminary approval is a settlement of the
11 litigation as against all Defendants. The terms of the Agreement are set out in the
12 Stipulation of Settlement dated June 2, 2009 (the “Agreement” or the
13 “Stipulation”), executed by counsel on behalf of the Plaintiff and the Defendants.

14 The Court has preliminarily considered the Agreement to determine, among
15 other things, whether to certify a class for settlement purposes only and whether
16 the Agreement is sufficient to warrant the issuance of notice to members of the
17 Settlement Class. Upon reviewing the Agreement and motion papers relating to
18 the request for preliminary approval of the Agreement, it is hereby ORDERED,
19 ADJUDGED AND DECREED as follows:

20 1. Class Findings – Solely for the purposes of the Agreement, the Court
21 preliminarily finds that the requirements of the Federal Rules of Civil Procedure,
22 the United States Constitution, the Rules of the Court and any other applicable law
23 have been met as to the “Settlement Class” defined below, in that:

24 A. All findings in this Section 1 are based on the submissions to
25 the Court, including the Agreement. These findings are not based upon any
26 admissions, representations, assertions, or arguments by the Defendants that
27 a class can, should, or would be certified in the Action, and these findings
28 are made while preserving fully the Defendants’ rights to argue, in the event

1 that the Agreement does not become final or is terminated pursuant to the
2 Agreement, that no class can or should be certified in the Action.

3 B. The Court preliminarily finds that, as required by Rule 23(a)(1),
4 the Settlement Class is ascertainable from records kept with respect to the
5 Plan and from other objective criteria, and the members of the Settlement
6 Class are so numerous that their joinder before the Court would be
7 impracticable.

8 C. The Court preliminarily finds that, as required by Rule 23(a)(2),
9 there are one or more questions of fact and/or law common to the Settlement
10 Class.

11 D. The Court preliminarily finds that, as required by Rule 23(a)(3),
12 the claims of the Plaintiff are typical of the claims of the Settlement Class.

13 E. The Court preliminarily finds, as required by Rule 23(a)(4), that
14 the Plaintiff will fairly and adequately protect the interests of the Settlement
15 Class in that (i) the interests of Plaintiff and the nature of their alleged
16 claims are consistent with those of the members of the Settlement Class,
17 (ii) there appear to be no conflicts between or among the Plaintiff and the
18 Settlement Class, and (iii) the Plaintiff and the members of the Settlement
19 Class are represented by qualified, reputable counsel who are experienced in
20 preparing and prosecuting large, complicated ERISA class actions.

21 F. The Court preliminarily finds that, as required by Rule 23(b)(1),
22 the prosecution of separate actions by individual members of the Settlement
23 Class would create a risk of (i) inconsistent or varying adjudications as to
24 individual class members, that would establish incompatible standards of
25 conduct for the parties opposing the claims asserted in the ERISA Action or
26 (ii) adjudications as to individual class members that would, as a practical
27 matter, be dispositive of the interests of the other members not parties to the
28

1 adjudications, or substantially impair or impede those persons' ability to
2 protect their interests.

3 G. The Court preliminarily finds that, as required by Rule 23(b)(2),
4 the Defendants have acted or did not act on grounds generally applicable to
5 the Settlement Class, thereby making appropriate final injunctive relief or
6 corresponding declaratory relief with respect to the Settlement Class as a
7 whole.

8 H. The Court preliminarily finds that, as required by Rule 23(g),
9 Lead Counsel is capable of fairly and adequately representing the interests of
10 the Settlement Class, in that co-lead Class Counsel has done extensive work
11 identifying or investigating potential claims in the action, and have litigated
12 the validity of those claims at the motion to dismiss stage of this case; co-
13 lead Class Counsel is experienced in handling class actions and claims of the
14 type asserted in the Action; co-lead Class Counsel is knowledgeable of the
15 applicable law; and co-lead Class Counsel has committed the necessary
16 resources to represent the Settlement Class.

17 2. Class Certification – Based solely on the findings set forth in Section
18 1 above, and not on any admissions, representations, assertions, or arguments by
19 the Defendants, the Court preliminarily certifies the following class for settlement
20 purposes under Fed. R. Civ. P. 23(b)(1) and 23(b)(2) in this litigation (the
21 Settlement Class):

22 All persons who are Participants in or beneficiaries of the
23 Plan at any time between May 6, 2006 and the present
24 (the "Class Period") and whose accounts included
investments in Impac Mortgage Holdings, Inc. ("Impac"
or "IMH") Stock.

25 3. Appointment Of Class Representatives And Class Counsel. The Court
26 appoints the Plaintiff as the class representative for the Settlement Class, and Stull,
27
28

1 Stull & Brody and Gainey & McKenna (“Lead Counsel”) as class counsel for the
2 Settlement Class pursuant to Fed. R. Civ. P. 23(e) and (g).

3 4. Preliminary Findings Regarding Proposed Settlement – The Court
4 preliminarily finds that (i) the proposed Agreement resulted from extensive arm’s-
5 length negotiations, (ii) the Agreement was executed only after Lead Counsel had
6 conducted extensive pre-settlement motion practice and discovery, (iii) counsel for
7 Plaintiff has concluded that the Agreement is fair, reasonable and adequate, and
8 (iv) the Settlement evidenced by the Agreement is sufficiently fair, reasonable, and
9 adequate to warrant sending notice of the Agreement to the Settlement Class.

10 5. Fairness Hearing – A hearing is scheduled for September 14, 2009 at
11 10:00 a.m. (the “Fairness Hearing”) to determine, among other things:

12 A. Whether the Agreement should be approved as fair, reasonable
13 and adequate;

14 B. Whether the litigation should be dismissed with prejudice as to
15 the Defendants pursuant to the terms of the Agreement;

16 C. Whether the notice, summary notice and notice methodology
17 implemented pursuant to the Agreement (i) constituted the best
18 practicable notice, (ii) constituted notice that was reasonably calculated,
19 under the circumstances, to apprise members of the Settlement Class of
20 the pendency of the litigation, their right to object to the Agreement, and
21 their right to appear at the fairness hearing, (iii) were reasonable and
22 constituted due, adequate, and sufficient notice to all persons entitled to
23 notice and (iv) met all applicable requirements of the Federal Rules of
24 Civil Procedure, and any other applicable law;

25 D. Whether Lead Counsel adequately represented the Settlement
26 Class for purposes of entering into and implementing the Agreement;

27 E. Whether the motion for attorneys’ fees and expenses filed by
28 Lead Counsel should be approved; and

1 F. Whether the motion for compensation for Plaintiff should be
2 approved.

3 6. Class Notice – The Parties have presented to the Court a proposed
4 form of Class Notice, which is appended hereto as Exhibit 1. With respect to such
5 form of Class Notice, the Court finds that such form fairly and adequately (a)
6 describes the terms and effect of the Agreement and of the Settlement, (b) notifies
7 the Settlement Class that Lead Counsel will seek an award of attorneys’ fees,
8 expenses (including class notice expenses) and a case contribution award for the
9 Plaintiff out of the Fee and Expense Award (as defined in the Agreement), (c)
10 gives notice to the Settlement Class of the time and place of the Fairness Hearing,
11 and (d) describes how the recipients of the Class Notice may object to any of the
12 relief requested. The Parties have proposed the following manner of
13 communicating the notice to members of the Settlement Class, and the Court finds
14 that such proposed manner is the best notice practicable under the circumstances,
15 and directs that Lead Counsel shall:

16 A. By no later than 45 days before the Fairness Hearing, cause the
17 Class Notice, with such non-substantive modifications thereto as may be
18 agreed upon by the Parties, to be mailed, by first-class mail, postage
19 prepaid, to the last known address of each person within the Settlement
20 Class who can be identified by reasonable effort. The Company shall
21 cooperate with Lead Counsel by providing, in electronic format, the
22 names and addresses of persons to whom the Class Notice is to be sent.
23 The names and addresses Lead Counsel obtain pursuant to this order
24 shall be used solely for the purpose of providing notice of this Agreement
25 and for no other purpose.

26 B. By no later than 45 days before the Fairness Hearing, cause the
27 Class Notice to be published on each website identified in the Class
28 Notice.

1 C. At or before the Fairness Hearing, Lead Counsel shall file with
2 the Court a proof of timely compliance with the foregoing requirements.

3 7. Objections to Settlement – Any member of the Settlement Class who
4 wishes to object to the fairness, reasonableness or adequacy of the Agreement, to
5 any term of the Agreement, to the proposed award of attorneys’ fees and expenses,
6 or to any request for compensation for the Plaintiff may file an Objection.
7 Objections may be filed in paper form or via electronic mail as described herein. If
8 an objector chooses to file an Objection in paper form the objector must file with
9 the Court a statement of his, her, or its objection(s), specifying the reason(s), if
10 any, for each such objection made, including any legal support and/or evidence
11 that such objector wishes to bring to the Court’s attention or introduce in support
12 of such objection. The objector must also mail copies of the objection and all
13 supporting law and/or evidence to Lead Counsel and to counsel for the Defendants.
14 The addresses for filing objections with the Court and service on counsel are as
15 follows:

16 Clerk of the Court
17 [address to be provided]

18
19 To Lead Counsel:

20 Thomas J. McKenna
21 GAINY & McKENNA
22 295 Madison Avenue
23 New York, NY 10017
24 Telephone: (212) 983-1300
25 Facsimile: (212) 983-0383

26 STULL, STULL & BRODY
27 Jules Brody
28 Edwin J. Mills
Michael J. Klein
6 East 45th Street
New York, NY 10017
Telephone: (212) 687-7230
Facsimile: (212) 490-2022

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To Defendants' Counsel:

Miles N. Ruthberg
Peter W. Devereaux
LATHAM & WATKINS LLP
355 South Grand Avenue
Los Angeles, California 90071-1560
Telephone: (213) 485-1234
Facsimile: (213) 891-8763

Pamela S. Palmer
Michele D. Johnson
LATHAM & WATKINS LLP
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626
Telephone: (714) 540-1235
Facsimile: (714) 755-8290

Objections may also be filed via electronic mail to the following addresses:

Clerk of the Court

[to be provided]

Edwin J. Mills

emills@sbny.com

Thomas J. McKenna

TJMcKenna@gaineyandmckenna.com

Michele D. Johnson

MICHELE.JOHNSON@LW.com

1 The objector or his, her, or its counsel (if any) must effect service of copies
2 of the objection on counsel listed above and file it with the Court by no later than
3 seven (7) days before the date of the Fairness Hearing. If an objector hires an
4 attorney to represent him, her, or it for the purposes of making such objection
5 pursuant to this paragraph, the attorney must both effect service of a notice of
6 appearance on counsel listed above and file it with the Court by no later than seven
7 (7) days before the date of the Fairness Hearing. Any member of the Settlement
8 Class or other person who does not timely file and serve a written objection
9 complying with the terms of this paragraph shall be deemed to have waived, and
10 shall be foreclosed from raising, any objection to the Agreement, and any untimely
11 objection shall be barred.

12 8. Appearance at Fairness Hearing – Any objector who files and serves a
13 timely, written objection in accordance with paragraph 7 above may also appear at
14 the Fairness Hearing either in person or through counsel retained at the objector’s
15 expense. Objectors or their attorneys intending to appear at the Fairness Hearing
16 must effect service of a notice of intention to appear setting forth, among other
17 things, the name, address, and telephone number of the objector (and, if applicable,
18 the name, address, and telephone number of the objector’s attorney) on Lead
19 Counsel and Defendants’ counsel (at the addresses set out above) and file it with
20 the Court by no later than seven (7) days before the date of the Fairness Hearing.
21 Any objector who does not timely file and serve a notice of intention to appear in
22 accordance with this paragraph shall not be permitted to appear at the Fairness
23 Hearing, except for good cause shown.

24 9. Notice Expenses – The expenses of printing and mailing all notices
25 required hereby shall be paid from the Fee and Expense Award as provided in
26 Paragraph 20 of the Agreement.

27 10. Service of Papers – Defendants’ counsel and Lead Counsel shall
28 promptly furnish each other with copies of any and all objections that come into

1 their possession.

2 11. Termination of Settlement – This Order shall become null and void,
3 and shall be without prejudice to the rights of the Parties, all of whom shall be
4 restored to their respective positions existing immediately before this Court entered
5 this Order, if the Settlement is terminated in accordance with the Agreement. In
6 such event, Paragraph 25 of the Agreement shall govern the rights of the Parties.

7 12. Use of Order – This Order shall not be construed or used as an
8 admission, concession, or declaration by or against Defendants of any fault,
9 wrongdoing, breach, or liability. This Order shall not be construed or used as an
10 admission, concession, or declaration by or against Plaintiff or the Settlement Class
11 that their claims lack merit or that the relief requested in the Action is
12 inappropriate, improper or unavailable, or as a waiver by any party of any
13 arguments, defenses, or claims he, she, or it may have, including, but not limited
14 to, any objections by Defendants to class certification in the event that the
15 Agreement is terminated.

16 13. Jurisdiction – The Court hereby retains jurisdiction for purposes of
17 implementing the Agreement, and reserves the power to enter additional orders to
18 effectuate the fair and orderly administration and consummation of the Agreement
19 as may from time to time be appropriate and to resolve any and all disputes arising
20 thereunder.

21 14. Continuance of Hearing – The Court reserves the right to continue the
22 Fairness Hearing without further written notice.

23 SO ORDERED this 1st day of July, 2009.



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26 HON. JUDGE ANDREW J. GUILFORD
27 UNITED STATES DISTRICT COURT FOR
28 CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION