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9 Attorneys for Defendant Irwin Mortgage
10 Corporation

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

15

16 FREEDOM MORTGAGE CORPORATION,

CASE NO. C 09-01399 MEJ

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Plaintiff,

**FIFTH STIPULATION AND ORDER TO
EXTEND TIME IN WHICH DEFENDANT
MUST FILE A RESPONSIVE PLEADING &
CONTINUING CMC DATE AND RELATED
DATES**

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v.

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IRWIN FINANCIAL CORPORATION AND
IRWIN MORTGAGE CORPORATION,

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Defendants.

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1 WHEREAS, Irwin Financial Corporation ("Debtor"), defendant in the above-captioned
2 matter, filed a petition for relief under Chapter 7 of the United States Bankruptcy Code on
3 September 18, 2009, resulting in an automatic stay in Debtor's favor pursuant to 11 U.S.C. §
4 362(a) and has Chapter 7 Counsel, David M. Powlen, Barnes & Thornburg, LLP, 11 S
5 Meridian St., Indianapolis, IN 46204-3506, (317) 236-1313;

6 WHEREAS, on November 24, 2009, the National Arbitration Forum stayed arbitration
7 proceedings that involve Freedom Mortgage Corporation ("Freedom") and two other
8 subsidiaries of Debtor and issues related to this matter pending disposition in the Bankruptcy
9 Court, and the arbitration is not expected to resume prior to the dates set forth below;

10 WHEREAS, on April 19, 2010, the Court entered an order continuing various
11 deadlines and the Case Management Conference because Freedom and Irwin Mortgage
12 Corporation ("Irwin Mortgage") were in the process of evaluating the impact Debtor's
13 bankruptcy has on this proceeding and other related legal proceedings;

14 WHEREAS, Irwin Mortgage is currently scheduled to file its responsive pleading on or
15 before June 25, 2010;

16 WHEREAS, the ADR Certification and Stipulation to ADR Process or Notice of Need
17 for ADR Phone Conference ("ADR Material"), the Rule 26(f) Report, initial disclosures, and
18 Case Management Statement are currently due July 9, 2010;

19 WHEREAS, the Initial Case Management Conference is currently scheduled for July
20 15, 2010 at 10:00 a.m.;

21 WHEREAS, Freedom and Irwin Mortgage desire to reach a global settlement of all
22 disputes and claims in this action and other actions, including the arbitration, which will
23 necessarily involve the participation of another former subsidiary of Debtor that is not
24 named as a party in this action and which is under the control of a third party;

25 WHEREAS, Freedom and Irwin Mortgage believe that good cause exists for a further
26 continuance of the foregoing deadlines and Initial Case Management Conference; and

27 NOW, THEREFORE, the parties, by and through their undersigned counsel of record,
28 hereby agree and stipulate to the following:

1 1. Defendant Irwin Mortgage will file a responsive pleading on or before
2 September 24, 2010.

3 2. The Rule 26(f) Report, initial disclosures, Case Management Statement and
4 ADR Material will be served and/or filed on or before October 8, 2010.

5 3. The Initial Case Management Conference currently scheduled for
6 July 13, 2010 is hereby continued until October 15, 2010, or to such date as may be
7 ordered by the Court.

8 DATED: June 24, 2010

BUTY & CURLIANO

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10 By: /s/ Jason C. Curliano
11 JASON C. CURLIANO

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12 ZUKERMAN GORE BRANDEIS & CROSSMAN, LLP

13 JOHN K. CROSSMAN¹

14 Attorneys for Plaintiff Freedom Mortgage
15 Corporation

15

16 DATED: June 24, 2010

SOLOMON WARD SEIDENWURM & SMITH, LLP

17

18 By: /s/ Jenny L. Dixon
19 JENNY L. DIXON

20 WILSON SONSINI GOODRICH & ROSATI
21 Professional Corporation

22 DAVID J. BERGER

23 Attorneys for Defendant Irwin Mortgage
24 Corporation

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¹ Application for admission *pro hac vice* pending.

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ORDER

Based upon the above stipulation of the parties, and for good cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. Defendant Irwin Mortgage Corporation will file a responsive pleading on or before September 24, 2010.

2. The Rule 26(f) Report, initial disclosures, Case Management Statement and ADR Material will be served and/or filed on or before October ⁷~~8~~, 2010.

3. The Initial Case Management Conference currently scheduled for July 15, 2010 is hereby continued until October ¹⁴~~15~~, 2010, or to such later date as may be ordered by the Court.

DATED: June 24, 2010



Hon. Maria Elena James
United States Magistrate Judge

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ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Jenny L. Dixon, attest that concurrence in the filing of this document has been obtained from Jason C. Curliano. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 24th day of June, 2010 at San Diego, California.

By: /s/ Jenny L. Dixon
JENNY L. DIXON

Attorneys for Defendant Irwin Mortgage Corporation

1 **CERTIFICATE OF SERVICE**

2 I caused the **FIFTH STIPULATION AND ORDER TO EXTEND TIME IN WHICH**
3 **DEFENDANTS MUST FILE A RESPONSIVE PLEADING & CONTINUING CMC DATE AND**
4 **RELATED DATES** to be served in the following manner:

5 **Electronic Mail Notice List**

6 The following are those who are currently on the list to receive e-mail notices for this
7 case.

8 **Frank C. Welzer**
9 Zukerman Gore & Brandeis LLP
10 875 Third Avenue
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11 212-223-6700
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22
23 By: /s/ Jenny L. Dixon
JENNY L. DIXON

24 Attorneys for Defendant Irwin Mortgage
25 Corporation
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