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23 **IN THE UNITED STATES DISTRICT COURT**
 24 **DISTRICT OF NEVADA**

25 PROFICIO MORTGAGE VENTURES,
 26 LLC,

27 Plaintiff,

28 v.

THE FEDERAL SAVINGS BANK,

Defendant.

Case No. 2:15-CV-510-RFB-(VCF)

**STIPULATION AND [PROPOSED]
 ORDER TO EXTEND EXPERT
 DISCOVERY DEADLINES**

(Fifth Request)

Plaintiff, Proficio Mortgage Ventures, LLC (“Proficio”) and Defendant, The Federal Savings Bank (“TFSB”), by and through their undersigned attorneys, hereby stipulate and agree as follows:

Pursuant to Local Rules of Civil Practice 6-1 and 26-4, the parties state as follows:

I. DISCOVERY THAT HAS BEEN COMPLETED

A. Plaintiff's Discovery

- 1 (a) Plaintiff's Initial Disclosures and documents served June 16, 2015;
- 2 (b) Plaintiff's First Set of Interrogatories served August 18, 2015;
- 3 (c) Plaintiff's First Set of Requests for Production served on August 18, 2015;
- 4 (d) Plaintiff's Answers to Defendant's First Set of Interrogatories served on
- 5 October 8, 2015;
- 6 (e) Plaintiff's Responses to Defendant's First Set of Requests for Production
- 7 served on October 8, 2015;
- 8 (f) Plaintiff's Second Set of Interrogatories served on February 11, 2016;
- 9 (g) Plaintiff's Second Requests for Production served on February 11, 2016;
- 10 (h) The depositions of four (4) principal witnesses, Naranjo, O'Brien, Russell
- 11 and Gomez, have been completed;
- 12 (i) Plaintiff provided Defendant its damages calculations, to date, on January
- 13 13, 2016;
- 14 (j) Plaintiff submitted supplemental discovery production to Defendant on
- 15 January 25, 2016;
- 16 (k) Plaintiff's Responses to Defendant's Second Set of Requests for Production
- 17 and discovery production were served on March 3, 2016;
- 18 (l) On June 9-10, 2016, the parties conducted depositions of two (2) TF SB
- 19 representatives.
- 20 (m) The parties have scheduled depositions of fifteen (15) fact witnesses during
- 21 the months of June and July, 2016.

22 **B. Defendant's Discovery**

- 23 (a) Defendant's Initial Disclosures and documents served on June 15, 2015;
- 24 (b) Defendant's First Set of Interrogatories and Document Requests served on
- 25 September 3, 2015;
- 26 (c) Defendant's Answers to Plaintiff's First Set of Interrogatories and Requests
- 27 for Production on September 22, 2015;
- 28

1 (d) The depositions of four (4) principal witnesses, Naranjo, O'Brien, Russell
2 and Gomez, have been completed;

3 (e) Defendant's Second Set of Document Requests served on January 27, 2016;

4 (f) On January 27, 2016, Defendant noticed Subpoenas for Documents to non-
5 parties Evofi One Mortgage, First National Bank of Layton, North American Marketing, Inc., and
6 Resolute Bank.

7 (g) Defendant's Answers to Plaintiff's Second Set of Interrogatories served on
8 March 14, 2016;

9 (h) Defendant's Responses to Plaintiff's Second Request for Production served
10 on March 14, 2016;

11 (i) Defendant revised and supplemented its answers and production to
12 Plaintiff's Second Interrogatories and Second Request for Production.

13 (j) On June 9-10, 2016, the parties conducted depositions of two (2) TFSB
14 representatives.

15 (k) The parties have scheduled depositions of fifteen (15) fact witnesses during
16 the months of June and July, 2016.

17 **II. DISCOVERY TO BE COMPLETED**

18 The parties have completed the bulk of document exchange. However, depositions of at
19 least fifteen (15) fact witnesses will be conducted during June and July, 2016. Once the
20 aforementioned fact discovery is completed, the parties and their designated experts will require
21 time to complete their reporting/analysis and conduct depositions of the expert witnesses.

22 **III. REASONS WHY THE DEADLINE CANNOT BE SATISFIED**

23 The parties believe that their experts need additional time to complete their respective
24 analysis in light of the strong likelihood that upcoming fact witness depositions will reveal facts
25 and evidence that will significantly impact the experts' reporting/analysis. Therefore, the parties
26 will comply with the current deadlines for *identifying* their experts, providing the experts'
27 *credentials*, and *designating topics* on which those experts will testify. However, the parties are
28

1 seeking to extend the deadlines in which to provide the expert reports/analysis to the other party,
2 and extend the deadlines for the depositions of such experts. The parties do not seek to modify any
3 other non-expert deadlines set forth in the current discovery schedule. The parties continue to
4 work diligently to complete discovery. This request is not made for the purpose of delay, but to
5 allow for a just adjudication of the case on the merits. The parties agree that they will not be
6 prejudiced by a delay.

7 With respect to the deadline to disclose initial experts, which is less than twenty-one (21)
8 days from the date of this Stipulation, the facts and circumstances demonstrate excusable neglect
9 for failure to act within the 21-day deadline imposed by Local Rule 26-4. The parties have
10 continued to act diligently in scheduling and conducting discovery, and in discussing potential
11 resolutions to this case up and through the date of this stipulation. Due to the number of remaining
12 fact witnesses to be deposed and the geographic dispersal of the various witnesses, it has not
13 proven feasible to complete the fact witness depositions necessary to allow the parties' experts to
14 prepare complete and comprehensive reports.

15 **IV. PROPOSED AMENDED DISCOVERY SCHEDULE**

16 In light of the above, the parties stipulate and agree, subject to this Court's approval, to the
17 following discovery schedule:

- 18 A. Discovery Cut-off Date. The deadline to complete *fact* discovery shall remain
19 August 19, 2016.
- 20 B. Initial Expert Disclosure. The deadline to disclose initial experts shall remain June
21 17, 2016, *but limited to the experts' identities, credentials, and topics upon which*
22 *the experts will testify.*
- 23 C. Initial Expert Report. The deadline for the Parties to serve their initial expert
24 report(s) shall be extended from June 17, 2016 to **July 28, 2016**.
- 25 D. Rebuttal Expert Disclosure. The deadline to disclose rebuttal experts shall remain
26 July 18, 2016, *but limited to the experts' identities, credentials, and topics upon*
27 *which the experts will testify.*

- 1 E. Rebuttal Expert Report. The deadline for the Parties to serve rebuttal expert
2 report(s) shall be extended from July 28, 2016 to **August 19, 2016**.
- 3 F. Expert Depositions. The parties may conduct expert depositions through
4 **September 7, 2016**.
- 5 G. Dispositive Motions. The deadline to file dispositive motions shall remain
6 September 19, 2016.
- 7 H. Joint Pretrial Order. The deadline to file the Joint Pretrial Order shall remain
8 October 19, 2016.
- 9 I. Pretrial Disclosures. The deadline to disclose witnesses under Rule 26(a)(3) of the
10 Federal Rules of Civil Procedure and any objections thereto shall remain July 25,
11 2015.

12 The Parties represent that this stipulation is sought in good faith, is not interposed for delay,
13 and is not filed for an improper purpose.

14 Respectfully submitted this 14th day of June, 2016.

15 GREENBERG TRAUERIG, LLP

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The Pretrial disclosure deadline is July 15, 2016.

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ORDER

IT IS SO ORDERED.

Dated: June 15, 2016



U.S. MAGISTRATE JUDGE

SUBMITTED BY:

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