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SUPERIOR COURT OF THE STATE OF CALIFORNIA

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COUNTY OF SAN FRANCISCO, CIVIC CENTER COURTHOUSE

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TIFFANIE LOPEZ, individually and on behalf
11 of all Class Members,

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Plaintiff,

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v.

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MARCUS & MILLICHAP REAL ESTATE
INVESTMENT SERVICES, INC., et al.,

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Defendants.

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CASE NO. CGC-09-493705

**DECLARATION OF WILLIAM H.
FORMAN IN SUPPORT OF JOINT
APPLICATION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT**

Assigned to Hon. Richard A. Kramer,
Dept. 304

Date: July 1, 2011
Time: 9:30 a.m.

Action Filed: October 23, 2009
Trial Date: None Set

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DECLARATION OF WILLIAM H. FORMAN

I, William H. Forman, declare as follows:

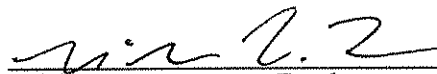
1. I am an attorney duly admitted to practice in the state of California. I am a member of Scheper Kim & Harris LLP, attorneys of record for Defendant Marcus & Millichap Real Estate Investment Services, Inc., ("M&M"). I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. This declaration is offered in support of the Joint Application for Preliminary Approval of Class Settlement.

3. Attached hereto as Exhibit 1 is a true and correct copy of the Amended Class Action Settlement entered into between Tiffanie Lopez and Marcus & Millichap Real Estate Investment Services, Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 24th day of June, 2011 at Los Angeles, California.



William H. Forman, Declarant

Exhibit 1

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by Plaintiff Tiffanie Lopez (“Lopez” or “Plaintiff”) and Defendant Marcus & Millichap Real Estate Investment Services, Inc. (“Marcus & Millichap” or “Defendant”) (Lopez/Plaintiff and Marcus & Millichap/Defendant are each a “Party” and collectively are the “Parties”). This Agreement hereby supersedes in all respects the Agreement previously entered into between the Parties on May 3, 2011.

I. THE LITIGATION

1. On October 23, 2009, Lopez filed a Complaint against Marcus & Millichap in the Superior Court of California for the County of San Francisco, Case Number 09-493704, and amended complaints in January 2010 and April 2010 (collectively, “Complaint”) seeking to represent a class of “all current and former California employees having a title of Assistant and/or other similarly designated titles who worked as an Assistant to a Marcus & Millichap Agent, regardless of whether the Assistant was paid as an employee or independent contractor” at any time from four years prior to the filing of the Complaint.. The Complaint alleges that Marcus & Millichap failed to pay overtime wages for hours worked; failed to pay wages upon termination; failed to maintain accurate employment records; failed to allow meal and rest breaks; failed to fully reimburse reasonable and necessary business expenses; and engaged in unfair business practices. The Complaint also requests declaratory relief and injunctive relief.

2. Marcus & Millichap contends it has complied with California and Federal law, and disputes all claims for damages and other relief made by Lopez. Marcus & Millichap denies all of Lopez’s claims as to liability and damages as well as Lopez’s class allegations, and does

not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all procedural and factual grounds including the assertion of any and all defenses, if the Judgment does not become Final for any reason, or in the event that the Effective Date does not occur.

3. The Parties appeared for and began initial settlement discussions on February 8, 2011, before the Honorable William Cahill. On March 3, 2011, a proposed settlement was reached during the second session before the Hon. (Ret) William Cahill.

4. This Agreement, and the Settlement it evidences, is made in compromise of all disputed claims. Because this is a class action, this Agreement must receive preliminary and final approval by the Court. Accordingly, Lopez and Marcus & Millichap enter into this Agreement on a conditional basis. In the event that the Court does not execute and file the Judgment, or in the event that such Judgment does not become Final for any reason, or is modified in any material respect, or in the event that the Effective Date does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no force or effect whatsoever, and shall not be referred to or utilized for any purpose whatsoever.

II. DEFINITIONS

The following are certain definitions applicable to this Agreement. Definitions contained elsewhere in the body of this Agreement shall also be effective.

1. "Claim Administrator" - means or refers to The Garden City Group, Inc., who the parties will ask the Court to appoint as the claims administrator at the preliminary approval hearing. The costs of administering the Settlement shall be paid by the Defendant.

2. "Class" - is defined all current and former California employees having a title of

Assistant and/or other similarly designated titles who worked as an Assistant to a Marcus & Millichap Agent, regardless of whether the Assistant was paid as an employee or independent contractor at any time from October 23, 2005 to January Sempteber 28, 2010, and who held such a position for thirty (30) days or longer.

3. "Class Representative Enhancement" - means the sum to be paid to Plaintiff Tiffanie Lopez as enhancement for her role as Class representative, and for the risks and work attendant to those roles.

4. "Effective Date" - means the date by which both of the following have occurred: (i) this Settlement is finally approved by the San Francisco Superior Court or other court taking jurisdiction of this matter; and (ii) the Court's Judgment and Order Approving Class Settlement and Dismissing the Class Action with Prejudice becomes Final, including that the time for filing of any appeal of the Order granting Final Approval has expired. If no objections have been filed to the Settlement, the Effective Date shall be the date of the trial court's order granting Final Approval.

5. "Exclusion Request Form"- refers to the Exclusion Request Form substantially in the form attached as part of Exhibit A.

6. "Final" - means the latest of: (i) if there is an appeal of the trial court's Judgment in the Litigation, the date of final affirmance on an appeal, the date of dismissal of such appeal, the expiration of the time for a petition for review of such appeal by the California Supreme Court, and, if review is granted, the date of final affirmance of the Judgment following review pursuant to that grant; or (ii) if there is a petition for writ of certiorari to the U.S. Supreme Court, the date of denial of such petition or the date of affirmance of the Judgment pursuant to such

petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

7. "Final Settlement Hearing" - means the hearing to be conducted by the San Francisco County Superior Court or other court taking jurisdiction of this matter, to determine whether to enter the Judgment finally approving and implementing the terms of this Agreement.

8. "Individual Settlement Award" - means the Settlement Payment owed to a Settlement Class Member.

9. "Judgment" - refers to the Judgment and Order Approving Class Settlement, in a form to be subsequently agreed upon by the Parties, or absent agreement, to be determined by the Court.

10. "Litigation" - means the action herein, San Francisco County Superior Court Case Number Case Number 09-493704.

11. "Motion for Preliminary Approval" - refers to the motion for preliminary approval of the Settlement and its supporting papers.

12. "Order Granting Preliminary Approval" - refers to the order or statement of decision granting preliminary approval of the Settlement, in a form to be subsequently agreed upon by the Parties, or absent agreement, to be determined by the Court.

13. "Notice" - refers to the Notice of Pendency of Class Action, Proposed Settlement and Proposed Hearing Date for Court Approval, substantially in the form attached hereto as Exhibit A.

14. "Parties" - means Plaintiff and Defendant, collectively.

15. "Plaintiff" - means Tiffanie Lopez, individually and in her capacity as party

seeking to act as class representative.

16. "Plaintiff's Attorneys" - means Hersh & Hersh, and attorneys duly substituted for them.

17. "Plaintiff's Attorney Fees" - refers to the amount awarded to the Plaintiff's Attorneys by the San Francisco County Superior Court or other court taking jurisdiction of this matter, for prosecuting the Litigation which sum is to be included in the fee award maximum of Three Hundred Thousand Dollars (\$300,000.00), and to be submitted to the Court for approval.

18. "Plaintiff's Expenses" - means the sum of Plaintiff's expenses of litigation including but not limited to filing fees, deposition costs, transcript costs, investigations, postage copying, facsimiles, mediation fees and subpoena costs, incurred by Plaintiff and Plaintiff's Attorneys and approved for reimbursement by the San Francisco County Superior Court or other court taking jurisdiction of this matter, not to exceed Twenty Thousand Dollars (\$20,000.00), subject to proof and to be submitted to the Court for approval.

19. "Preliminary Approval Hearing" - means the hearing to be conducted by the San Francisco County Superior Court or other court taking jurisdiction of this matter, to determine whether to grant the Motion for Preliminary Approval.

20. "Released Claims" - means the claims released at Sections III.3(a) and (b) below, and as defined therein.

21. "Settlement" - means the settlement of this Litigation and related claims effectuated by this Agreement.

22. "Settlement Amount" - shall consist of a total maximum payment by Marcus & Millichap of Nine Hundred Thousand Dollars (\$900,000.00), and shall consist of the following

elements: (i) payment to Settlement Class Members of approximately Six Hundred and Sixty Dollars (\$660.00) per Settlement Class Members, such payment allocated 50% to wages and 50% to reimbursement of employment-related expenses; (ii) Class Representative Enhancements as ordered by the Court and as described in this Agreement; (iii) Plaintiff's Expenses as ordered by the Court and as described in this Agreement; (iv) Plaintiff's Attorney Fees payable upon order of the Court and as described in this Agreement; and (v) any cy pres payments, as described herein.

23. "Settlement Class" - means those persons who are members of the Class for whom the Claims Administrator has contact information and who have not properly and timely opted-out of the Litigation.

24. "Settlement Class Member" - means any Settlement Class Member who is entitled to a Settlement Payment from the Settlement Proceeds.

25. "Settlement Expenses" - means those expenses of effectuating and administering the Settlement, *i.e.*, the costs incurred to the Claim Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Settlement Proceeds, and the fees of the Claim Administrator which will be paid for by the defendant and are estimated at Fifty Thousand Dollars (\$50,000.00).

26. "Settlement Payments" - means the Settlement Amounts to be received by the Settlement Class Members.

27. "Settlement Period" - means October 23, 2005, to and including September 28, 2010.

28. "Settlement Proceeds" - means the Settlement Amount, less all of the following:

the Class Representative Enhancement, Plaintiff's Attorney Fees, and Plaintiff's Expenses.

III. SETTLEMENT TERMS

Lopez and Marcus & Millichap further agree as follows:

1. Scope of Settlement:

The Settlement described herein will resolve fully and finally all Settlement Class Members' Released Claims as described in Section III, Paragraph 3(b) below.

2. Consideration:

Subject to Court approval, and in consideration for the release and Settlement described in this Agreement, Defendant shall pay the Settlement Amount to the Settlement Class Members, the Representative Plaintiff, Plaintiff's Attorneys and the Claims Administrator in the manner specified in this Agreement. The Settlement Amount shall be used to satisfy: (1) the claims of all Settlement Class Members, as specified herein; (2) Plaintiff's Expenses; (3) all claims for an award of Plaintiff's Attorney Fees; and (4) the Class Representative Enhancement. The Settlement Amount shall be paid in accordance with the terms of this Agreement.

3. Release of Claims by Class Members:

(a) For and in consideration of the mutual promises contained herein, Plaintiff and the Settlement Class Members fully and finally release, as of the date of the Court's Preliminary Approval of this settlement, Defendant, its parents, subsidiaries, affiliates, and all of its employees, officers, directors, agents (which term specifically does not include M&M independent contractor salespersons), attorneys, auditors, accountants, insurers, stockholders, representatives, predecessors, successors, assigns, company sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees, and

agents from any and all “Settlement Class Members’ Released Claims.”

(b) For the purposes of this Agreement, the Settlement Class Members’ Released Claims are defined as: all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that could have been asserted, whether in tort, contract, or for violation of any state and/or federal statute, rule or regulation, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of or related to any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, or causes of action alleged in the Complaint on a class basis, including allegations that Marcus & Millichap: (i) violated the California Labor Code as alleged in the operative Complaint; (ii) violated the applicable wage orders of the California Industrial Welfare Commission; (iii) did not pay the Class Members all agreed upon wages, and/or overtime wages that they were owed for all hours worked; (iv) failed to provide meal and/or rest breaks to the Class Members; (v) failed to maintain accurate employment records; (vi) failed to fully reimburse reasonable and necessary expenses; (vii) failed to pay all wages due upon termination; and (viii) engaged in unfair competition (including, but not limited to, claims that Marcus & Millichap engaged in unfair competition by allegedly failing to comply with Business & Professions Code Section 10137). “Settlement Class Members’ Released Claims” does not include any claims that any class member may have against an individual M&M independent contractor salesperson as an employer of such Class Member and for the alleged violations described at (i) through (viii) of this paragraph.

4. Denial of Liability:

Defendant denies that it has engaged in any unlawful activity, has failed to comply with

the law in any respect, or has any liability to anyone under the claims asserted in the litigation. The Parties expressly acknowledge that this Agreement is entered into for the purpose of compromise of highly disputed claims and that nothing herein is an admission of liability or wrongdoing by Marcus & Millichap. Neither this Agreement nor any document prepared in connection with the Settlement may be admitted in any proceeding as an admission by Marcus & Millichap, Plaintiff, or any person within the definition of the Class. However, this paragraph and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.

5. Approval of Settlement:

The Parties agree to the following procedures for obtaining preliminary approval of the Settlement, certifying a conditional Settlement Class, notifying Class Members, and obtaining Final Court approval of the Settlement:

(a) **Stipulation re Class Certification for Settlement Purposes Only:** The Parties stipulate to certification of the Class for purposes of settlement only. If the Court does not grant either Preliminary Approval or Final Approval of this Settlement, the Parties' stipulation on class certification will be void and of no further force or effect.

(b) **Motion/Application for Preliminary Approval:** As soon as practicable, the Parties shall file the Motion/Application for Preliminary Approval of the Settlement and Proposed Order Granting Preliminary Approval of the Settlement with the supporting papers.

(c) **Motion/Application for Attorney Fees & Expenses Award:** Defendant

shall not oppose any application by Plaintiff or Plaintiff's Attorneys for Plaintiff's Attorney Fees in the amount of Three Hundred Thousand Dollars (\$300,000.00) and Costs in an amount equal to or less than Twenty Thousand Dollars (\$20,000.00), subject to proof.

(d) **Motion/Application for Class Representative Enhancement:**

Defendant shall not oppose any application by Plaintiff and/or Plaintiff's Attorneys for a Class Representative Enhancement in an amount equal to or less than Fifteen Thousand Dollars (\$15,000.00).

(e) **Court Approval:** Should the San Francisco County Superior Court, or any other Court taking jurisdiction of this matter: (i) decline to approve all material aspects of the Settlement; (ii) fail to provide for dismissal with prejudice of the Litigation; or (iii) determine, for any reason, that Defendant is not to be entitled to a dismissal with prejudice in the Litigation, then Defendant shall have no obligation to make any payment under this Agreement, including payment of the Settlement Amount. In the event Defendant has made any payment, such monies shall be returned promptly to Defendant.

(f) **Notice of Class Settlement:** Following the entry of the Order Granting Preliminary Approval of the Settlement, the Notice and Claim Form, including the Exclusion Request Form, ("Notice/Claim Form Packages") substantially in form attached hereto as Exhibit A, shall be mailed to Class Members.

(i) No later than ten (10) calendar days after the Court enters the Order of Preliminary Approval, Class Counsel shall provide Claim Administrator with the names, and most current mailing addresses for the Class Members for whom Class Counsel has such information, and to the extent such information differs from that previously provided by Marcus

& Millichap as part of the notice process agreed to by the Parties under *Pioneer v. Superior Court* (“Pioneer Notice”). The lists/information submitted by the Parties to the Claims Administrator is referred to collectively as the “Settlement Class Data.”

(ii) When the Claims Administrator receives the Settlement Class Data from the Parties, the Claims Administrator will compare it with any information the Claims Administrator may have regarding the contact information for the Class Members from the Pioneer Notice process and use its best business judgment to compile what it reasonably believe to be the most current, up-to-date contact list for the Class Members. If there is any doubt as to what address is the correct address, the Claims Administrator will send duplicate “Notice/Claim form Packages” (defined below) to both addresses.

(iii) Within thirty (30) calendar days of Preliminary Approval, or as soon thereafter as practicable, the Claim Administrator shall mail the Notice/Claim Form Packages to all identified Class Members via first-class regular U.S. Mail. The date of mailing of the Notice/Claim Form Packages sent to Class Members shall be referred to as the “Notice Date.”

(iv) If new address information is obtained by return mail, the Claim Administrator shall promptly forward the Notice to the addressee via first-class regular U.S. Mail indicating on the Notice the date it was re-mailed, and notify counsel for Marcus & Millichap and Plaintiff’s Attorneys of the date of each re-mailing. The Objection/Exclusion Deadline Date, defined in Section III, Paragraph 3(g)(vi) of this Agreement shall be sixty (60) days of the date of the first re-mailing for Class Members whose Notices are re-mailed pursuant to this paragraph.

(v) The Notice shall provide that the Class Members who wish to

object to the Settlement must file with the court and serve on counsel for the Parties a written statement objecting to the Settlement. Such written statement must be filed with the Court and served on counsel for the Parties no later than sixty (60) days following the mailing of the Notice (or any such re-mailing, as provided in Paragraph (f)(iv) above). (This deadline is referred to herein as the "Objection/Exclusion Deadline Date.") Class Members who fail to file and serve timely written objections in the manner specified in this Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether in the trial court, appellate courts, or otherwise) to the Settlement.

(vi) The Notice shall include the option for Class Members to opt out of the Settlement. Any Class Member wishing to opt out of the Settlement must comply with the deadline and procedures specified in the Notice for doing so. Class Members who fail to file and serve a valid and timely written Request for Exclusion Form on or before the Objection/Exclusion Deadline Date shall be bound by all terms of the Settlement and the Judgment entered in the Litigation if the Settlement is approved by the Court, regardless of whether they have objected to the Settlement. Within ten (10) days of the Objection/Exclusion Deadline Date, the Claim Administrator shall provide the Parties with a complete and accurate list of all Class Members who have validly and timely requested exclusion from the Class.

(vii) Class Members will have sixty (60) days from the Notice Date to return the Wage Claim Form, in the form attached at Exhibit A, with Social Security information and other information necessary for the Claims Administrator to issue a W-2, as described below. If a Class Member does not submit a timely, valid Wage Claim Form he or she will not receive any portion of the Individual Settlement Award that represents wages (exactly half of

each such award) (“Wages Award.”). However, failure to submit a Wage Claim Form shall not bar a Class Member from receiving the portion of the Individual Settlement Award that represents reimbursement (exactly half of each such award) (“Reimbursement Award”). Any sums that would have been paid as Wage Claims of Individual Settlement Awards that are not claimed by Class Members shall be donated as follows: the first \$10,000 in unclaimed funds will be donated to Shelter Partnership. Any remained will be disbursed equally among Shelter Partnership (www.shelterpartnership.org), that National Right to Work Legal Defense Foundation (www.nrtw.org), and the Wounded Warrior Project (www.woundedwarriorproject.org), or as otherwise ordered by the Court.

(viii) The date of delivery for a Wage Claim Form shall be, as applicable: (a) the date the Claim form is deposited in the U.S. Mail, postage pre-paid, addressed to the Claims Administrator (as evidenced by the post-date marked by the post office); the date the Claim Form is deposited with an overnight letter carrier guaranteeing delivery within two (2) business days, or (c) the date the Claim Form is personally delivered to the Claims Administrator. Any Claim Forms that are received in the mail within one (1) day after the close of the notice period without a post mark will be timely; after that it shall be untimely.

(ix) The Claims Administrator shall have the right to contact any Class Member to request additional information that may be necessary to complete the claim.

(x) Any Class member who fails to submit a timely, valid Wage Claim Form and does not effectively opt-out of the Settlement shall be barred from receiving a Wage Award under this Settlement but shall remain bound by the releases set forth herein.

(xi) A Class Member who does not opt-out or object to the Settlement

shall automatically receive a Reimbursement Award, regardless of whether a Wage Claim Form is timely submitted. Such Reimbursement Awards shall be mailed by the Claims Administrator to all such Class Members within thirty (30) days of Final Approval.

(g) **Uncashed Checks.** Settlement Class Members shall have one hundred eighty (180) days from the date of any check sent by the Claims Administrator (whether as a Wage Award or Reimbursement Award) to cash any such checks. After the expiration of the 180-day period, any uncashed checks will be voided by the Claims Administrator. The Claims Administrator will give written notice to Class Counsel and Counsel for Marcus & Millichap of the total amount of funds represented by the uncashed checks within five (5) business days after the expiration of the 180-day period. Any such unclaimed Individual Settlement Payments shall be remitted by the Claims Administrator to the charities in the order, form, and amount as III.5.(f)(vii) above.

(h) **Non-Solicitation of Opt-Outs/Objections:** The Parties agree that neither they nor their counsel will solicit or otherwise encourage directly or indirectly Class Members to request exclusion from the Class, object to the Settlement, or appeal the Judgment.

(i) **Marcus & Millichap's Right to Rescind this Settlement Agreement:** If ten percent (10%) or more of the Class Members submit timely, valid Opt-outs or Objections, Marcus & Millichap shall have the right, in its sole discretion, to rescind and void this Settlement Agreement prior to final approval by the Court by giving written notice to Class Counsel at least five (5) days before the Final Settlement Hearing.

(j) **Final Settlement Hearing:** A Final Settlement Hearing to determine Final Approval of the Settlement shall be conducted subject to the calendar of the Court. No

later than ten (10) days before the Final Settlement Hearing, the Parties shall file a memorandum of points and authorities in support of the Settlement. The Parties, contemporaneous with the filing of the Motion/Application for Final Approval, shall file a proposed Judgment and Order Approving Class Settlement and Entering Judgment (“Judgment”), to the Court for its approval and entry. The amount of the Judgment entered shall not exceed \$900,000. After entry of the Judgment, the Court shall have continuing jurisdiction over the Litigation solely for purposes of: (i) enforcing this Agreement and the Judgment; (ii) addressing settlement administration matters; and (iii) addressing such post-Judgment matters as may be appropriate under Court rules or applicable law.

6. Final Order and Judgment:

Upon Final Approval of the Settlement, a Final Order and Judgment shall be entered by the Court, which shall, among other things:

(a) grant final approval to the settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class, as a whole, and order the parties to carry out the provisions of this Agreement;

(b) render judgment against Marcus & Millichap and on behalf of the Settlement Class in an amount not to exceed \$900,000;

(c) adjudge that the Settlement Class Members are conclusively deemed to have released Marcus & Millichap from any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of and/or related to the events complained of on a class basis in the Litigation;

(d) bar and permanently enjoin each Settlement Class Member from

prosecuting against Marcus & Millichap any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of and/or related to the events complained of on a class basis in the Litigation; and

- (e) reserve continuing jurisdiction as provided herein.

7. Allocation of Settlement Payments:

(a) 1099 forms will be issued for all non-wage payments which exceed the minimum legal reporting threshold for the issuance of such forms, including payments made by Marcus & Millichap to the Class Representative and Plaintiff's Attorney Fees and Plaintiff's Expenses. The Reimbursement Awards to be sent to each non-opt-out, non-objecting Class Member shall not be subject to a form 1099. Each Class Member shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes due which may be owed on his or her Settlement Payment, Class Representative Enhancement, and shall hold Marcus & Millichap harmless and indemnify Marcus & Millichap for any liabilities, costs, and expenses, including attorney fees, caused by any such taxing authority relating in any way to the tax treatment of the payments made pursuant to this Agreement. Except that Marcus & Millichap is responsible for the employer payroll tax contribution for any amount paid to Class Members as income and the Claims Administrator will issue the appropriate tax documents, as described herein. The Parties acknowledge and agree that proper information reporting will be made to the appropriate taxing authorities regarding all payments made pursuant to this Agreement which exceed the minimum legal reporting threshold for such reporting.

8. Method of Determining Allocation of Settlement Payments:

The Parties hereby agree that the formula for allocating the Settlement Payments to

Settlement Class Members provided herein is reasonable and that the payments and benefits provided herein are designed to provide a fair settlement to the persons within the definition of the Class based on the following considerations: risk of litigation, lack of documentation concerning class hours worked, and the retained ability to proceed against individual salespersons. The parties have agreed that the distribution to each Settlement Class Member shall be determined as follows:

(a) The Settlement Payments shall be evenly distributed across the Settlement Class Members in equal Individual Settlement Awards. The amount of the Individual Settlement Awards shall be calculated by dividing the amount of the Settlement Proceeds by the number of persons in the Class, with an Individual Settlement Award of approximately Six Hundred and Sixty Dollars (\$660.00) or more.

9. Distribution of Settlement Proceeds to Settlement Class Members:

After the Effective Date, the Settlement Proceeds shall be distributed to Settlement Class Members as follows:

(a) Those persons who submit valid and timely Request For Exclusion Forms pursuant to the Notice (“Opt-Outs”) are not entitled to any Settlement Payments.

(b) The Claims Administrator shall distribute to each non Opt-Out a Reimbursement Award, regardless of whether any such non Opt-Out has submitted a Wage Claim Form.

(c) The Claims Administrator will issue to those Class members who have submitted timely, valid Claim Forms (“Wage Claiming Class Members”) a tax form W-2 for all wage amounts and a Wage Claim Award. The Claims Administrator shall provide a report to

Marcus & Millichap's counsel notifying Marcus & Millichap of the amounts it is required to pay in employer payroll taxes with respect to the wage amounts. Marcus & Millichap shall, within thirty (30) calendar days of receipt of such report, remit that amount of payroll tax contribution for the Claims Administrator to pay the appropriate taxing entities on Marcus & Millichap's behalf.

10. Other Payments:

(a) **Plaintiff's Attorney Fees and Plaintiff's Expenses:** Marcus & Millichap agrees to pay the amount awarded by the Court as Plaintiff's Attorney Fees of up to Three Hundred Thousand Dollars (\$300,000.00) and Plaintiff's Expenses of up to Twenty Thousand Dollars (\$20,000.00). Said amount shall be paid within thirty (30) days of the Effective Date.

(b) **Plaintiff's Class Representative Enhancement:** Marcus & Millichap agrees to pay the amount awarded by the Court as Plaintiff's Class Representative Enhancement up to and including Fifteen Thousand Dollars (\$15,000.00). Said payment shall be made within thirty (30) days of the Effective Date.

(c) **Approval of Fees and Costs Not a Condition of Settlement:** Approval of Plaintiff's Attorney Fees and Plaintiff's Expenses and the award of a Class Representative Enhancement are not conditions to this Agreement, and are to be considered by the Court separately from the fairness, reasonableness, adequacy and good faith of the Settlement. Any order or proceeding relating to the application by Plaintiff's Attorneys for an award of attorney fees and expenses or Class Representative Enhancement, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the Judgment. To the extent the Court does not

approve Plaintiff's Attorney Fees in the amount of up to Three Hundred Thousand Dollars (\$300,000.00) and Plaintiff's Expenses in the amount of up to Twenty Thousand Dollars (\$20,000.00) or more, and the Class Representative Enhancement in the amount of Fifteen Thousand Dollars (\$15,000.00) or there is any appeal of any order relative to these payments, the non-approved or otherwise appealed amounts will be held in a fund created by the payment of the full settlement amount contemplated herein, to be maintained and held by the Claim Administrator, until such time as either: (1) the Attorney or Class Representative Tiffanie Lopez has waived his, her or its right to appeal the Order denying in full or in part the claim made; (2) the Attorney or Class Representative Tiffanie Lopez has had any appeal pursued by him, her or it decided with finality, such that the funds can be paid in conformance with the appellate result; or (3) any appeal pursued by any other person or entity relative to these payments has been finally adjudicated, such that the funds can be paid in conformance with the appellate result.

12. Notices:

Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing, shall be made by e-mail and by U.S. Mail, and shall be deemed to have been duly given as of the fifth day after mailing by U.S. Mail, addressed as follows:

To Class Counsel for Plaintiff:

Mark Burton
Charles Kelley
Hersh & Hersh
601 Van Ness Ave., Suite 2080
San Francisco, CA 94102
mburton@hershlaw.com
ckelley@hershlaw.com

To Counsel for Marcus & Millichap:

Diann H. Kim, Esq.
William H. Forman, Esq.
SCHEPER KIM & HARRIS LLP
601 W. Fifth Street, 12th Floor
Los Angeles, CA 90071
dkim@scheperkim.com
wforman@scheperkim.com

13. Entire Agreement:

After this Agreement is fully executed by all Parties and their attorneys of record, this Agreement shall constitute the entire agreement relating to settlement of this Litigation and the causes of action and defenses asserted therein, and it shall then be deemed that no oral representations, warranties or inducements have been made to any party concerning this Agreement other than the representations, warranties and covenants expressly stated in this Agreement.

14. Authorization:

Plaintiff's Attorneys warrant and represent that they are authorized by Plaintiff for whom they are attorneys of record, and the attorneys of record for Marcus & Millichap warrant and represent that they are authorized by Defendant, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties agree

to seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the Court shall be consistent with this Agreement.

15. Jurisdiction:

The Court shall have continuing jurisdiction to resolve any dispute which may arise with regard to the terms and conditions of this Agreement, subject to approval by the Court. Except where the context indicates otherwise, references to the Court shall also include any other courts that take jurisdiction of the Litigation, or any to whom the Court has referred the matter.

16. Modification:

This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.

17. Successors:

This Agreement shall be binding upon, and inure to the benefit of, the successors of each of the Parties.

18. California Law:

All terms of this Agreement and its Exhibits shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

19. Representation by Counsel:

The Parties have all been represented by counsel and have cooperated in the drafting and preparation of this Agreement. This Agreement shall not be construed against any Party on the basis that the party was the drafter or participated in the drafting.

20. Counterparts:

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

Signatures may be submitted via original signature, facsimile or in PDF format.

21. Incorporation of Exhibits:

All exhibits attached hereto are incorporated by reference and are a material part of this Agreement. Any notice, order, judgment or other exhibit that requires approval of the court must be approved without material alteration from its current form in order for this Agreement to become effective.

22. Reasonableness of Settlement:

Plaintiff and Defendant believe that this is a fair, reasonable and adequate Settlement and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, present and potential.

23. Return of Documents and Confidential Information:

Within thirty (30) days after the filing of the Judgment pursuant to this Agreement, Plaintiff's Attorneys shall, upon written demand by Defendant, return all documents marked "Confidential" received from Defendant and destroy any information extracted from such documents (including, but not limited to, names and addresses of Marcus & Millichap sales agents). No copies shall be retained of any such document.

24. Headings:


The headings contained in this Agreement are for reference only and are not to be construed as a part of the Agreement.

25. **Named Plaintiff's Waiver of Right to Object:**

By signing this Agreement, Plaintiff Tiffanie Lopez agrees to be bound by its terms and agrees not to request to be excluded from the Class and agrees not to object to any of the terms of the Agreement. Non-compliance by Plaintiff with this paragraph shall be void and of no force and effect. Any such request for exclusion or objection shall therefore be void and of no force and effect.


Execution By Parties

Dated: 6/27, 2011




Tiffanie Lopez

Dated: 6/27, 2011

HERSH & HERSH
By: 

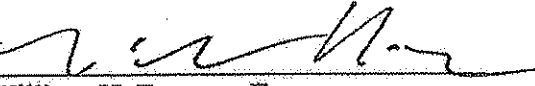
Mark Burton, Esq.
Counsel for Plaintiff

Dated: 6/24/11, 2011

MARCUS & MILICHAP REAL ESTATE
INVESTMENT SERVICES, INC
By: 

Paul Mudrich, Esq.
Managing Director and Chief Legal Officer

Dated: 6/24, 2011

SCHEPER KIM & HARRIS LLP
By: 

William H. Forman, Esq.
Attorneys for Defendant

Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

TIFFANIE LOPEZ, individually and on behalf of all Class Members,

Plaintiff,

v.

MARCUS & MILLICHAP REAL ESTATE INVESTMENT
SERVICES, INC., et al.,

Defendants.

No. CGC-09-493705

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT AND HEARING DATE
FOR COURT APPROVAL**

THIS NOTICE MAY AFFECT YOUR RIGHTS
PLEASE READ ALL OF IT CAREFULLY

TO: ALL PERSONS WHO WORKED AS AN ASSISTANT TO A MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES, INC. ("M&M" OR "THE COMPANY") SALESPERSON IN THE STATE OF CALIFORNIA, DURING ANY PORTION OF THE PERIOD OF OCTOBER 23, 2005 THROUGH SEPTEMBER 28, 2010 FOR A PERIOD OF LONGER THAN THIRTY (30) DAYS (THE "SETTLEMENT CLASS").

You are a member of the Settlement Class in this case and this Notice contains important information as to your rights under a proposed settlement ("Settlement") of the above-noted lawsuit ("Lawsuit"). As a qualifying Settlement Class member, you are entitled to receive a settlement payment.

The Settlement Payment for each class member is approximately \$560.00 and consists of two parts. The first part is related to reimbursement of any unreimbursed expenses ("Reimbursement Payment"). The Reimbursement Payment is 50% of the Settlement Payment (or approximately \$330.00). The Reimbursement Payment is intended to compensate you for unreimbursed reasonable and necessary expenses incurred by you in connection with your work as an assistant to an M&M Salesperson, including but not limited to travel expenses (excluding commuting expenses), office supplies, telephone and internet charges, and materials prepared on behalf of clients. You do not need to do anything to receive the Reimbursement Payment.

The second part of the Settlement Payment relates to any unpaid wages ("Wage Payment"). The Wage Payment is the other half of the Settlement Payment (approximately \$330.00). The Wage Payment is intended to compensate you for any overtime, meal and rest break time, and penalties for failure to make such payments timely and provide regular statements of wages for which M&M might be liable. You must submit a claim form, with a completed W-9 form, to receive a Wage Payment, which Payment is subject to all applicable income tax.

Regardless of whether you submit a claim form for a Wage Payment, you will be deemed to have released all claims against M&M and related parties, unless you request exclusion from the Settlement Class. If you wish to be excluded from the Settlement Class, you must submit a written Election Not To Participate In Settlement (form enclosed herein) via U.S. mail postmarked on or before October *, 2011.

This Notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the merits of any of the claims or defenses asserted in the Lawsuit.

1. What Are the Critical Dates?

The Court-granted preliminary approval of the Settlement on July 1, 2011. At that time, the Court preliminarily approved the Settlement; conditionally certified the Class for Settlement purposes only; appointed Class Counsel; designated Plaintiff Tiffanie Lopez ("Plaintiff") as Class Representative; approved this Notice and the procedures for finalizing the Settlement approval process; and set the following critical dates relating to the proposed settlement:

- **October *, 2011 - The last date to mail your written Election Not To Participate In Settlement form, if you do not want to participate in the Settlement, and do not want to be bound by the Settlement.**
- **October *, 2011 - The last date to mail any written objections and/or intervention to the Settlement.**

October *, 2011 – The last date to mail your claim for a Wage Payment.

- October *, 2011 - The date for the Court hearing to determine whether the proposed Settlement is fair, reasonable and adequate, and should receive final Court approval.

2. **Why Should I Read this Notice?**

This Notice is given pursuant to an Order by the Court dated July 1, 2011. The purpose of this Notice is to inform you that a Settlement of the Lawsuit has been reached between Plaintiff and M&M on behalf of all Class Members who were affiliated with M&M as assistants to California-based salespersons at any time from October 23, 2005 to September 28, 2010 (the "Settlement Period") for a period of 30 days or longer. You have received this Notice because M&M's records indicate that you were an assistant to a Salesperson for 30 days or longer during the Settlement Period.

The Settlement is subject to final approval by the Court. If this occurs, the Settlement will result, among other things, in (a) a Settlement Payment to eligible class members in the amount of approximately \$660.00; and (b) as to all Settlement Class members, the dismissal of the pending Lawsuit and the release of certain potential or actual claims that Settlement Class members may have against M&M. This Notice is designed to advise you of how you can participate in this Settlement or, alternately, how to be excluded from the Settlement.

3. **What Is the Lawsuit About?**

On October 23, 2009, Plaintiff Tiffanie Lopez for herself and on behalf of the Class, filed the Lawsuit against M&M seeking to represent a Class of all individuals who were affiliated assistants to salespersons in California at any time during the four years preceding the filing of the Complaint.

The Lawsuit alleges that M&M was an employer of the Settlement Class members, and as a result failed to pay all overtime wages for all hours worked, failed to pay all such wages upon termination, failed to maintain accurate employment records, failed to allow meal and rest breaks, failed to reimburse reasonable and necessary business expenses, and engaged in unfair business practices (including permitting Salespersons to directly compensate Settlement Class members for the performance of work requiring a real estate license). The Lawsuit also requested declaratory relief. M&M contends that it has complied with California and Federal law, and disputes all claims for damages and other relief made by the Plaintiff.

4. **What Are the Terms of the Settlement?**

M&M has agreed to provide \$900,000 towards settlement of this action. A certain portion of this amount will be used for payment of the Class Representative Enhancement and Class Counsel Attorneys' fees and costs (as describe at paragraph 5 below). The remainder will be dedicated to Settlement Payments. Settlement Class members will automatically be included in the Settlement and will receive the benefits described herein, unless they submit a timely and valid Election Not To Participate In Settlement form.

(a) **Reimbursement Payment.** All Settlement Class members who do not submit an Election Not To Participate form will automatically receive a Reimbursement Payment of approximately \$330.00. **The Reimbursement Payment is intended to compensate you for un-reimbursed reasonable and necessary expenses incurred by you in connection with your work as an assistant to an M&M Salesperson, including but not limited to travel expenses (excluding commuting expenses), office supplies, telephone and internet charges, and materials prepared on behalf of clients.** The allocation of a uniform \$330.00 Reimbursement Payment among class members is based on the fact that M&M, consistent with its position that it was not the employer of any of the Class Members, did not maintain any records reflecting reasonable and necessary expenses incurred by Class Members.

(b) **Wage Payment.** In addition to the Reimbursement Payment, all Settlement Class members who do not submit an Election Not To Participate are eligible to receive a Wage Payment of approximately \$330.00. **The Wage Payment represents compensation for M&M's alleged failure to pay overtime wages for hours worked, to pay any such wages upon termination, to maintain accurate employment records, to allow meal and rest breaks, for alleged unfair business practices (including permitting Salespersons to directly compensate Settlement Class members for the performance of work requiring a real estate license).** The allocation of a uniform \$330.00 Wage Payment among class members is based on the fact that M&M, consistent with its position that it was not the employer of any of the Class Members, did not maintain any records reflecting the Class Members' hours worked or wages paid.

In order to receive this Wage Payment, you must complete and mail the the enclosed Wage Payment Claim Form by October 1, 2011. M&M will pay its share of any employer payroll tax for the Wage Payment. If you receive a Wage Payment, you shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes due which may be owed, and you shall hold Marcus & Millichap harmless and indemnify Marcus & Millichap for any liabilities, costs, and expenses, including attorney fees, caused by any such taxing authority relating in any way to the tax treatment of the payments made pursuant to this Agreement. You are responsible for Even if you do not submit a Wage Payment Claim Form, you will be releasing all claims as described at paragraph 8 below.

5. **Attorney's Fees and Class Representative Enhancement.**

Subject to Court approval, Plaintiff Tiffanie Lopez may be paid an enhancement for her services as Class Representative. Class counsel intend to ask the Court for an enhancement of \$15,000. Further, attorneys for the Class ("Class Counsel") will seek an award of attorney's fees from the Court in the amount of \$300,000.00, which sum will be paid in addition to any benefits afforded to the Class Members, and which payment is not a contingency of the approval of the Settlement. In addition, Class Counsel will seek reimbursement of their costs incurred in the prosecution of this action, in an amount estimated to be \$20,000. The decision regarding the amount of attorney's fees, costs and enhancements which will be paid is subject to the discretion and approval of the Court.

6. **What Are the Released Claims?**

The release and waiver that Class Members are providing to M&M is important. If the Settlement is approved by the Court, the scope of the release and waiver, as of the effective date of the Settlement, is as follows:

Release of Claims by Class Members:

(a) For and in consideration of the mutual promises contained herein, Plaintiff and the Settling Class members fully and finally release, as of the date of the Court's Preliminary Approval of this Settlement, M&M, its parents, subsidiaries, affiliates, and all of its employees, officers, directors, attorneys, auditors, accountants, insurers, stockholders, representatives, predecessors, successors, assigns, company sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees, and agents (but not including any individual Salespersons) (the "Released Parties"), from any and all "Settlement Class Members' Released Claims." **The Settlement does not release any claim that you may have for wage and hour claims or other claims against the M&M Salesperson for whom you worked.**

(b) For the purposes of this Agreement, the Settlement Class Members' Released Claims are defined as: all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, asserted or that could have been asserted, whether in tort, contract, or for violation of any state and/or federal statute, rule or regulation, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of or related to any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, or causes of action alleged on a class basis in the Lawsuit, including, but not limited to, allegations that M&M: (i) violated the California Labor Code as alleged in the operative Complaint; (ii) violated the applicable wage orders of the California Industrial Welfare Commission; (iii) did not pay the Settlement Class members all minimum wages, agreed upon wages, and/or overtime wages that they were owed for all hours worked; (iv) failed to provide meal and/or rest breaks to the Settlement Class members; (v) failed to maintain accurate employment records; (vi) failed to fully reimburse reasonable and necessary expenses; (vii) failed to pay all wages due upon termination; and (viii) engaged in unfair competition.

The full scope of the release and waiver will be governed by the terms of the Settlement Agreement.

7. **Why Are Class Counsel Recommending This Settlement?**

Relative to the risks and costs of continuing litigation of the Lawsuit, Class Counsel believe this Settlement provides a reasonable recovery which is in the best interests of the Class. Class Counsel's collective evaluation in this regard is based on the investigation and discovery they have undertaken; and upon their experience prosecuting similar cases. Class counsel estimates tha the total potential award on behalf of the class that could have been recovered on behalf of the class exceeded \$ several million dollars, but Class Counsel further understood that there were several significant impediments to any relief. Absent Settlement, Plaintiff would have to secure class certification as to the class claims over the strenuous opposition of M&M and in the face of legal precedent where class certification had been denied under similar circumstances. Additionally, at trial, Plaintiff would have the burden of proof to establish liability and the amount of damages. This case involves many unresolved factual and legal issues, some of which could be decided against Plaintiff at or before trial, and which would jeopardize Plaintiff's ability to certify a class or to obtain a favorable judgment and preserve it on appeal. To cite just one example, M&M did not maintain any records indicating the number of hours worked by Class Meembers, thus increasing the difficulty of showing on a class basis the amount of overtime owed (if any)

In addition, settling the case now has the further advantage of avoiding the very substantial additional costs and delay that further litigation would involve. M&M made it clear that it would fully challenge all class claims, and that it would oppose class certification, as well as any determination that the putative class members are entitled to any damages. Further, M&M could seek appellate review of any grant of class certification outside the settlement context and could also appeal any final adverse result at trial. Thus, absent settlement, it could be years before the litigation ends and class members receive any recovery, if any is achieved. Given the costs involved in further litigation and the time-value of money, even if a favorable judgment were obtained at trial, it could well produce less net recovery to the class members than the present Settlement.

8. **What If I Do Not Wish to Participate in the Settlement?**

If you wish to be excluded from the Class, you must fill out and sign the Election Not To Participate In Settlement included with this Class Notice. Additionally, to be valid, your Election Not To Participate In Settlement must be mailed to the Claims Administrator at the following address: *Lopez v. M&M* Claims Administrator, +++, by first-class mail with a postmark not later than **October *, 2011**. You may not give this form directly to M& M.

If you do not submit an Election Not To Participate In Settlement, you will be bound by the terms of the Settlement.

9. **What Are the Procedures for Participating in the Settlement?**

If you fall within the description of the persons to whom this Class Notice is directed and do not request exclusion from the Class as discussed above, you are and will remain a Settlement Class member and will receive the Reimbursement Payment. You will also be eligible to receive a Wage Payment if you mail a completed Wage Claim form to the Claims Administrator at the following address: *Lopez v. M&M* Claims Administrator, P.O. Box 91008, Seattle, WA 98111-9188, by first-class mail with a postmark not later than **October *, 2011**. You may not give this form directly to M& M. All Settlement Class members who do not request to be excluded from the Settlement pursuant to the procedures described above will be bound by the Settlement. As a Settlement Class member, you may enter a legal appearance individually or through your own counsel at your own expense. Otherwise, Class Counsel will represent your rights at no separate expense to you.

10. **Final Hearing.**

A final hearing will be held on October * xx, 2011 at 9:00 a.m. before the Honorable Richard A. Kramer, , in Department 304 of the San Francisco Superior Court, located at 400 McCallister Street, San Francisco, California (the "Final Hearing") to determine whether the Settlement is fair, reasonable and adequate. The Court will also be asked to approve Class Counsel's request for attorney's fees, reimbursement of costs, Claims Administration fees, and enhancement award for Plaintiff. The Final Hearing will conclude the case by dismissal and permit the Settlement to move forward.

You are not required to appear at the Final Hearing. Subject to the conditions set forth below, any Settlement Class member may appear and be heard at the Final Hearing at their own expense, including for the purpose of objecting to or intervening in the proposed Settlement. However, no Settlement Class member wishing to object to the Settlement or wishing to intervene in the case shall be heard, unless his or her written objection and/or intervention, setting forth the basis for the objection and/or intervention, along with any and all documentation in support of such objection is filed with the Court no later than October *, 2011, with copies simultaneously served on the following counsel:

Class Counsel for Plaintiff:

Mark Burton
Charles Kelley
Hersh & Hersh
601 Van Ness Avenue, Suite 2080
San Francisco, CA 94102

Defense Counsel:

Diann H. Kim
William H. Forman
Scheper Kim & Harris LLP
601 West Fifth Street, 12th Floor
Los Angeles, CA 90071-2025

Unless otherwise ordered by the Court, any Class Member who does not make his or her objection and/or intervention in the manner provided shall be deemed to have waived all objections and all rights to intervene into the fairness, reasonableness and adequacy of the proposed Settlement, the distribution of Settlement benefits/payments to and among Class Members, the fee and expense application, and the incentive payment application, and will have no other chance to object to or intervene into any of these items. The Court may reschedule the Final Hearing without further notice to the Class.

10. **Judgment, Releases and Distribution of Settlement Shares.**

If the Settlement is approved by the Court and not otherwise terminated, the Court will enter judgment against M&M and in favor of the Class in an amount not to exceed the total amount of the Settlement – \$900,000., and bar and permanently enjoin the named Plaintiff and each Class Member from prosecuting the Released Claims. As a result, once the judgment of Court in accordance with this Settlement has become final (the “Effective Settlement Date”), each of the Class Members and their legal successors-in-interest shall be deemed to have forever given up any Released Claims against M&M and the other released parties.

11. **Where Can I Find Additional Information?**

This Notice contains only a summary of the Lawsuit and terms of the proposed Settlement. For more detail, the pleadings in the Lawsuit and the full Class Settlement Agreement are available for inspection by you or your representative during regular business hours at the Office of the Clerk of the Superior Court, San Francisco, California. Inquiries regarding the Lawsuit or this Settlement should be addressed to Class Counsel noted above.

In addition, you can find and review copies of the key documents, including the full Settlement Agreement, at Class Counsel's website, at www.hershlaw.com.

You may also seek the advice and counsel of your own attorney, at your own expense, if you desire.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

BY ORDER OF THE SUPERIOR COURT
The Honorable Richard A. Kramer, Judge

Lopez v. Marcus & Millichap Real Estate Investment Services, Inc.
c/o The Garden City Group, Inc.
PO Box 91008
Seattle, WA 98111-9188

Claim No:

Control No:

SETTLEMENT WAGE CLAIM FORM
Tiffanie Lopez v. Marcus & Millichap
San Francisco Superior Court, No. CGC-09-493705

Instructions

In order to receive a wage claim payment ("Wage Claim Payment") in the settlement that is described in the Notice of Proposed Class Action Settlement ("Class Notice") for Assistants who have worked for M&M Salespersons, which accompanies this form, you must complete and submit this claim form to the Claims Administrator, Garden City Group, Inc., postmarked by October * ____, 2011.

Please provide the following information:

Personal Information

Name (first, middle and last): _____

Home Street Address: _____

City, State, Zip Code: _____

Telephone Number (Home and/or Mobile): _____

E-mail Address (optional): _____

Social Security Number _____

TO QUALIFY FOR A SHARE OF THE WAGE CLAIM SETTLEMENT, YOU MUST ALSO COMPLETE THE SUBSTITUTE IRS FORM W-9 BELOW:

Substitute IRS Form W-9

Enter the Social Security Number (SSN) you use to work or your Individual Taxpayer Identification Number (ITIN): _____ - _____ - _____

Print name as shown on our income tax return if different from your name on the first page of this form:

Under penalties of perjury, I certify that:

1. The taxpayer identification number shown on this form is the taxpayer identification number I use, and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

Signature

Note: If you have been notified by the IRS that you are subject to backup withholding, you must cross out item 2 above.

The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.

Tiffanie Lopez v. Marcus & Millichap Real Estate Investment Services, Inc.

Marcus & Millichap
Settlement Administrator
PO Box 91008
Seattle, WA 98111-9188

ELECTION NOT TO PARTICIPATE IN THE SETTLEMENT

IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS ABOVE, POSTMARKED NO LATER THAN October *, 2011.

I declare as follows:

Between October 23, 2005 through September 28, 2010, I was at some point an assistant to a salesperson associated with Marcus & Millichap Real Estate Investment Services, Inc. ("M&M"). I understand that this position is included in the Class in the Lawsuit. I have received notice of the proposed settlement in this Lawsuit and I wish to be excluded from the Class and to *not* participate in the Settlement. I understand this means that I will not be bound by the Settlement and also will not share in the Settlement Proceeds or other benefits.

PERSONAL INFORMATION (Please Print)			
First Name	Middle Initial	Last Name	
Mailing Address (Street, PO Box, Suite or Office Number, as applicable)			
City		State	Zip Code
Social Security Number		Phone Number	
Signature		Date Signed	

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PROOF OF SERVICE

I, Lily Lee, declare:

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action or proceeding; my business address is 601 Van Ness Avenue, Suite 2080, San Francisco, California 94102-6388.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 27, 2011, a true copy of the following documents: **DECLARATION OF WILLIAM H. FORMAN IN SUPPORT OF JOINT APPLICATION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Diann H. Kim, Esq. William H. Forman, Esq. Annah S. Kim, Esq. Scheper, Kim & Overland LLP 601 W. Fifth Street, 12 th Floor Los Angeles, CA 90071-2025 wforman@scheperkim.com	
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(BY MAIL) By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in accordance with the above business practice, as addressed above.

(BY HAND DELIVERY) By arranging hand-delivery of a copy of the same to the person(s) identified above.


(BY OVERNIGHT DELIVERY) By placing a true and correct copy of the document(s) listed above enclosed in a sealed envelope(s), and having said envelope be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) identified above.

(BY FACSIMILE) By transmitting a facsimile copy of the same, to the number listed above.

(BY ELECTRONIC MAIL) By transmitting an electronic copy of the same to the e-mail address(es) indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 27, 2011, at San Francisco, California.



Lily Lee