

Family Mediation of Cape Cod

Representation Agreement

This Agreement is between Family Mediation of Cape Cod (FMCC) and \_\_\_\_\_ (hereinafter "The Clients") who agree as follows:

PURPOSE:

Clients retain FMCC for representation and negotiation for one of the following: (please check applicable line)

- Residential Mortgage Loan Modification;
Short Sale;
Re-Structuring or Settlement for/of the First Position Deed of Trust [and Second Dead of Trust];

For Property Located At:

Held by:

\_\_\_\_\_ (First Mortgage) and
\_\_\_\_\_ (Second Mortgage).

FAMILY MEDIATION OF CAPE COD'S DUTIES AND OBLIGATIONS

- 1. FMCC agrees to undertake all reasonable and necessary actions to facilitate a successful resolution of the issues between the Clients and their mortgage lender(s).

## *An Alternative Approach to Resolving Family Problems*

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2. FMCC agrees to provide regular updates , at no less than 30 day intervals, of the current status of clients' Case and negotiations with Mortgage Lender(s).
3. FMCC, by this Agreement, has been engaged to provide legal and negotiation services consisting of but not limited to:
  - a) Reviewing all documents relating to Clients' Mortgage Agreement with Lender;
  - b) Building a complete hardship package in the event modification of the loan or short sale is determined to be the best course of action;
  - c) Submitting any and all necessary and/or required documentation to appropriate lender/servicer; following up with appropriate contacts and negotiations;
  - d) Negotiating on behalf of Clients to achieve a loan modification, deed in lieu of foreclosure, temporary loan forbearance, short-settlement or other workout option;
  - e) Consulting with Clients upon offer receipt from lender/servicer; and/or facilitating signing of necessary agreements between parties;
  - f) Any and all other necessary legal and negotiation services to achieve the Clients' desired goals.
  - g) . The services provided shall be in relation to the above listed Property (hereinafter Property). Clients understand and acknowledge that this Agreement does not include the provision of advice regarding taxes or bankruptcy.
  - h) FMCC agrees to act faithfully and to the best of its ability in attempting to benefit Clients in relation to the Property. FMCC does not guarantee that Clients will retain the Property.

### CLIENTS' DUTIES AND OBLIGATIONS

1. Clients agree to cooperate fully with FMCC in its efforts on their behalf.

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North Chatham, Mass. 02650

508-348-1435

mostrer@mindspring.com

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2. Client agrees to maintain regular communication with FMCC and respond to FMCC's phone calls or written communications promptly including providing documents or other information requested by FMCC promptly.
3. Clients agree to immediately provide FMCC with any and all communications received from the Lender during this course of this Agreement.
4. Clients shall not compromise in any manner whatsoever, FMCC's ability to perform under this Agreement, nor circumvent FMCC by making an Agreement directly with Lender.
5. Clients shall immediately provide any correspondence received in connection with their mortgage loan(s) during the life of this Agreement to FMCC as follows:

**Family Mediation of Cape Cod**

**P.O. Box 435**

**North Chatham, MA 02650**

**Email: [mostrer@mindspring.com](mailto:mostrer@mindspring.com)**

6. If contacted by Lender, Clients agree to notify Lender that Clients are represented by FMCC. Client agrees not to compromise or make any agreement with Lender without consultation with FMCC, because such action by Clients could inhibit FMCC's ability to perform under this Agreement.
7. Clients shall maintain access to a facsimile (FAX) transmission machine or email to allow transfer of documents between Client and FMCC in a timely manner.
8. Clients agree to make payments or initial contribution towards arrears and/or fees as directed by the Lender(s) in any reinstatement proposal negotiated by FMCC.
9. Clients warrant that the mortgage debt is not under any current bankruptcy proceedings with the U.S. Bankruptcy court.
- 10 Clients agree to indemnify and release FMCC for damages caused by information submitted by Clients which is later determined to be false or not able to be verified by independent documentation.**

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TERMINATION

Either Client or FMCC terminate this Agreement at any time upon providing 10 days written notice to the other Party. The Clients further understand that FMCC may suspend or terminate their Case, if FMCC believes that the Case will lead to an unfavorable result, or that an impasse has been reached, or determines that FMCC can no longer perform this consultative role.

If either Party cancels this Agreement pursuant to the terms set forth above Clients will be responsible for the monthly fee for the current month but no further fees. Any unearned amount of the retainer will be returned to the Clients.

DELEGATION OF SERVICES

FMCC is authorized to use its administrative staff under the supervision of an Attorney. Certain legal services may be provided by agents and subcontractors operating under the supervision of an Attorney licensed to practice in Massachusetts. FMCC may associate other Counsel at its discretion to fulfill legal services under this agreement.

NO GUARANTEE OF OUTCOME

Clients acknowledge that FMCC cannot promise any specific outcome or results. FMCC's comments about possible outcome of FMCC's representation of Clients are expressions of opinion only. Clients acknowledge and agree that FMCC has not made any promise, warranty, prediction or guarantee:

- (a) That Clients will retain the Property, or
- (b) Of any specific result or outcome.

FMCC's acceptance of Client's fees and payments does not depend upon the success of Client's case or expenditure of time, except in the case of a Short Sale. FMCC's

acceptance of Client's retainer does not guarantee a successful resolution of Client's matter.

COMPENSATION

Total compensation for FMCC's services for Mortgage Modification will be:

For mortgage loans under \$250,001	\$1200
For mortgage loans between \$250, 001 and \$500,000	\$2000
For mortgage loans between \$500,001 and \$749,000	\$3000

This includes: all meetings, emails, meetings and phone conferences with Clients or their lender, before, review of memos and written material submitted by the Clients, research on issues arising out of this matter, and preparing draft and final documents as necessary and any and all other services necessary to facilitate the acceptance of loan modification terms.

Compensation for Short Sale representation and negotiation services will be charged at the rate of \$150/hour for professional services. Separate charges will accrue for any out of pocket expenses. FMCC agrees to undertake short sale representation on a contingency basis and will be paid by the Lender at the successful conclusion of the sale. (FMCC's professional services fees are being discounted from its usual \$200/hour fee in order to make the final package more attractive to the Lender(s).

All other restructuring or settlement services will be charged at the rate of \$200/hour for professional fees. Separate charges will accrue for any out of pocket expenses including long distance phone calls, travel expenses, copying charges, or any other similar expense will be billed at cost.

A retainer equal to 25% of the entire amount will be returned with a signed copy of this Agreement for mortgage modification services. Thereafter, clients will be billed monthly in eight (8) equal installments. (On average loan modifications take between 6-18 months.) However, once all monthly payments have been made, if a

final resolution has not yet been achieved, FMCC will continue its representation of Clients at no additional cost for professional fees. Out of pocket expenses, if any, including long distance phone calls, travel expenses, copying charges, or any other similar expense will be billed at cost.

No retainer need be paid for Short Sale negotiation and representation services.

For all other services the amount of the retainer will be determined prior to the start of representation, depending upon the estimate of work to be done. And, Clients will be billed monthly for professional and other fees accrued during the billing period.

If Clients have a documented hardship in forwarding the retainer amount with the return of this Agreement, other arrangements will be considered on a case by case basis.

Clients will be billed monthly. Payment can be made by personal check or via credit card to Paypal Account [mostrer@mindspring.com](mailto:mostrer@mindspring.com). Monthly payments are to be made before the end of the billing month. If client falls more than 30 days behind (and has not contacted FMCC to discuss alternative payment arrangements) all work will cease on Clients' case until account is brought up to date.

Clients shall be jointly and severally liable for FMCC's fees and expenses.

#### CONSENT

Please read the above terms and make certain you understand them. If you have any questions about any of the Terms please contact us for clarification. By signing below, you consent to the above terms. FMCC will render the legal services as agreed and you will be billed and pay for the legal services and costs as described above.

#### DISPUTE RESOLUTION

The Clients and FMCC agree that if a dispute should arise between them, they will attempt to resolve it informally if possible, and through mediation with a mediator mutually agreed by the Parties. In the event that a resolution is not thereby reached,

the Clients and FMCC agree to submit all disputes (other than disputes regarding fees) which arise from or relate in any way to the representation set forth in this Agreement, to binding arbitration.

Clients and FMCC agree that if any dispute is submitted to binding arbitration, fee arbitration or any other legal process for resolution, the prevailing party shall only be entitled to recover costs and attorneys fees from the other party if the prevailing party attempted to resolve the matter through mediation PRIOR to initiating any legal proceedings including arbitration.

ENTIRE AGREEMENT AND CHOICE OF LAW

This Agreement contains the entire agreement of the parties and supersedes all prior representations whether written, oral, or implied by either party. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties. Modification of this Agreement may only occur in writing signed by all Parties.

This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Both Parties agree that the Court venue for such matters is in Barnstable County, Massachusetts.

SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Party A

Party B

\_\_\_\_\_

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Family Mediation of Cape Cod By:

\_\_\_\_\_, Esq.

Marsha A. Ostrer

P.O. Box 435

North Chatham, MA 02650

PLEASE REVIEW THIS AGREEMENT, SIGN AND DATE IT, AND RETURN BY MAIL EITHER WITH ACCOMPANYING CHECK OR PAYMENT TO PAYPAL ACCOUNT [mostrer@mindspring.com](mailto:mostrer@mindspring.com). This Agreement will NOT take effect until retainer has been received or other arrangements have been made and approved by FMCC.

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