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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

SHELDON PITTLEMAN, Individually
and on Behalf of All Others Similarly
Situated,

Plaintiff,

v.

IMPAC MORTGAGE HOLDINGS, INC.,
et al.,

Defendants.

CASE NO. SACV07-970 AG (MLGx)

CLASS ACTION

**THIRD AMENDED
CONSOLIDATED CLASS
ACTION COMPLAINT**

JURY TRIAL DEMANDED

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1 Lead plaintiff Joel Sharenow (“Lead Plaintiff”), individually and on behalf of
2 all other persons and entities (the “Class”) who purchased or otherwise acquired
3 securities issued by Impac Mortgage Holdings, Inc. (“IMH” or the “Company”)
4 between May 10, 2006 and August 6, 2007, inclusive (the “Class Period”), by his
5 undersigned attorneys, for his Third Amended Consolidated Class Action Complaint
6 (“TACC”), alleges the following upon personal knowledge as to himself and his own
7 acts, and upon information and belief as to all other matters.

8 Lead Plaintiff’s information and belief is based on his investigation (made by
9 and through his attorneys), which investigation included, among other things, a review
10 and analysis of: (a) public documents pertaining to Defendants (as defined herein); (b)
11 IMH’s filings with the Securities and Exchange Commission (“SEC”); (c) press
12 releases published by IMH; (d) IMH conference calls; (e) analyst reports concerning
13 the Company; (f) newspaper and magazine articles (and other media coverage)
14 regarding IMH and its business; and (g) interviews with numerous former employees
15 of IMH that held positions within the Company which gave them personal knowledge
16 of the matters set forth herein. Many of the facts supporting the allegations contained
17 herein are known only to Defendants or are exclusively within their custody and/or
18 control. However, Lead Plaintiff believes that further substantial evidentiary support
19 will exist for the allegations in the TACC after a reasonable opportunity for discovery.

20 **I. NATURE OF THE ACTION**

21 1. This is a securities class action brought on behalf of all purchasers of
22 IMH’s publicly traded securities during the Class Period, seeking to pursue remedies
23 under the Securities Exchange Act of 1934 (the “Exchange Act”). As discussed in
24 greater detail herein, the securities of IMH were artificially inflated throughout the
25 Class Period as a result of violations of the federal securities laws arising out of
26 Defendants’: (a) dissemination of false and misleading statements concerning the
27 Company’s financial results and operations; with (b) intentional and/or reckless
28 disregard of the true condition of the Company.

1 2. IMH is an acquirer, originator, seller and investor of “Alt-A” residential,
2 commercial, and multi-family mortgages. Alt-A mortgages are mortgage loans that
3 have loan characteristics which make them non-conforming under Fannie Mae or
4 Freddie Mac guidelines because they typically do not have certain documentation or
5 verifications that are required by Fannie Mae and Freddie Mac. As noted in the
6 Company’s public filings, some of the principal differences between mortgages
7 purchased by Fannie Mae and Freddie Mac and Alt-A mortgages are as follows: (a)
8 credit and income histories of the mortgagor; (b) underwriting guidelines for debt and
9 income ratios; (c) documentation required for approval of the mortgagor; and (d) loan
10 balances in excess of maximum Fannie Mae and Freddie Mac lending limits. Yet
11 despite the foregoing, IMH repeatedly stated throughout the Class Period that while
12 Alt-A mortgages may not have certain documentation or verifications that are required
13 by Fannie Mae and Freddie Mac, “*we believe that Alt-A mortgages provide an*
14 *attractive net earnings profile by producing higher yields without commensurately*
15 *higher credit losses than other types of mortgages.*”¹ Indeed, throughout the Class
16 Period, IMH sought to differentiate its Alt-A loans from riskier “subprime” loans, and
17 falsely represented that IMH’s expertise and close management of its Alt-A lending
18 practices meant that there was little difference in the performance of an Alt-A loan,
19 where individuals are not required (or able) to document their assets, to a traditional
20 Fannie Mae or Freddie Mac qualified loan, which requires asset verification.

21 3. Throughout the Class Period, Defendants were desperate to maintain not
22 only the profitability, but the very viability of the Company. According to “Impac
23 League Tables - Securitization Activity,” in 2004, IMH was ranked 17th with market
24 share of 1.8%. However, by 2006, IMH’s ranking plummeted to 48th with only 0.4%
25 market share.

26
27
28 ¹ At all times emphasis is added unless otherwise indicated.

1 4. In 2006, IMH also had the 2nd highest Alt-A “severe delinquency rate,”
2 at 8.31%, when compared to the top twenty issuers. This was almost four times
3 higher than the best performer (Citigroup at 2.27%) and nearly twice the “Alt-A”
4 issuer average (4.5%).

5 5. Therefore, in order for Defendants to maintain the Company as a going
6 concern, it was imperative to assure the investing community that the Company was
7 not only stable, but that it was well positioned to survive any drastic fluctuations in the
8 mortgage industry. Thus, Defendants set out to convince the market that their
9 “strategy” of focusing IMH’s business on high quality Alt-A loans, as opposed to
10 riskier subprime loans, would help the Company avert the potential downfalls
11 associated with subprime lenders. However, in reality, IMH Alt-A loans were little
12 more than “liar loans” since the Company was not as stringent concerning their
13 underwriting requirements as they represented to the investing community. In fact,
14 the Company had a regular practice of accepting virtually all loan applications
15 regardless of the credit-worthiness of the applicant, and in violation of the Company’s
16 internal guidelines.

17 6. As alleged herein, former IMH employees have confirmed that
18 Defendants knowingly accepted bad loans, and that IMH management (including
19 specifically, IMH President William S. Ashmore (“Ashmore”)), overrode internal
20 recommendations and accepted loan pools for which the Company’s own
21 underwriting department had recommended rejection. Ashmore and IMH Chief
22 Executive Officer (“CEO”) Joseph R. Tomkinson (“Tomkinson”) knew of the bad
23 loans because they were provided with detailed loan information during executive
24 meetings with the Company’s Chief Credit Officer and other high ranking executives
25 in the operations and underwriting department. These executive meetings included
26 discussion of loan pools based on spreadsheets for each pool, showing the borrower,
27 the borrower’s credit score, number of late payments, loan amount, and other
28 information. Tomkinson in particular was also provided with monthly loss estimate

1 reports detailing loan delinquencies. Moreover, despite their status as the two top
2 executives at the Company, Ashmore and Tomkinson were personally involved in the
3 loan approval process. Ashmore and Tomkinson sat on a high-level loan committee
4 that met bi-weekly and would review loans that did not comply with the Company's
5 internal guidelines and then override the guidelines and approve the loans.
6 Defendants' public statements were much different than their internal machinations to
7 accept loans and loan pools that did not fit in the Company's guidelines. Thus, at the
8 same time Defendants were publicly (and falsely) stating to investors that the
9 Company was tightening loan guidelines, Defendants were actually relaxing loan
10 standards at IMH.

11 7. On June 26, 2007, the Company shocked investors when it announced
12 that it was not paying a dividend for the second quarter of 2007 because it was
13 experiencing higher than expected loss levels as a result of its decision to accelerate
14 the liquidation of its real estate owned ("REO") portfolio. On this news, IMH shares
15 fell \$1.27 per share, or over 21.6%, to close on June 27, 2007 at \$4.59 per share, on
16 unusually heavy trading volume.

17 8. Unfortunately, that was only the beginning of IMH's revelations
18 concerning its true financial condition. Shortly thereafter, on August 7, 2007 (the first
19 trading day after the end of the Class Period), the Company announced that it planned
20 to exit the Alt-A loan market and was being forced to pay an increased number of
21 margin calls. On this news, IMH shares fell an additional \$0.61 per share, or
22 approximately 35%, to close on August 7, 2007 at \$1.09 per share.

23 9. Finally, on August 14, 2007, the Company announced financial results
24 for the second quarter of 2007, including a net loss of \$152.5 million, or \$2.05 per
25 share, as compared to net earnings of \$26.4 million, or \$0.30 per share for the second
26 quarter of 2006. The Company revealed that the loss was primarily the result of a
27 \$163 million increase in its provision for loan losses, higher delinquencies and
28 severities. The Company also stated that the underlying reason for the deterioration of

1 its financial results was based on the relatively poor performance of the loans that it
2 originated in 2006.

3 10. Thereafter, in May of 2008, Defendants announced that IMH suffered a
4 \$2.05 *billion* loss for 2007. The Company also confirmed that it was being
5 investigated by the federal government when it reported that the SEC was “*inquiring*
6 *into its operations.*”

7 11. In light of the foregoing, as discussed in greater detail below, Defendants
8 failed to disclose material adverse facts about IMH’s operations, financial well-being,
9 business relationships, and prospects throughout the Class Period. Among other
10 things, Defendants failed to disclose that a substantial number of the Alt-A mortgages
11 were offered to less creditworthy borrowers, in violation of the Company’s own
12 underwriting guidelines. As a result, the Company’s Alt-A mortgages faced many of
13 the same risks and discounts in securitization as subprime mortgages. IMH was
14 experiencing an increasing level of loan delinquencies, which was depressing its
15 earnings and simultaneously increasing the numbers of mortgage loans the Company
16 was required to repurchase under the terms of the whole-loan sale agreements. The
17 Company was also experiencing increasing difficulties in selling its loans because of
18 the lower credit worthiness of the borrowers and the higher rates of default and,
19 therefore, was required to decrease prices. IMH’s statements about its financial well-
20 being and future business prospects were therefore lacking in any reasonable basis
21 when made. As a result of Defendants’ wrongful acts and omissions, and the
22 precipitous decline in the market value of the Company’s securities, the Lead Plaintiff
23 and other Class members have suffered significant losses and damages.

24 **II. JURISDICTION AND VENUE**

25 12. This action arises under §10(b) and §20(a) of the Exchange Act, 15
26 U.S.C. §78j(b) and §78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17
27 C.F.R. §240.10b-5.

28

1 13. This Court has subject-matter jurisdiction over this action pursuant to §27
2 of the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1331.

3 14. Venue is proper in this District pursuant to §27 of the Exchange Act and
4 28 U.S.C. §1391. Many of the acts and practices complained of herein occurred in
5 substantial part in this District. IMH also maintains its headquarters in this District.

6 15. In connection with the acts, transactions and conduct alleged herein,
7 Defendants, directly or indirectly, used the means and instrumentalities of interstate
8 commerce, including, but not limited to, the United States mails, interstate telephone
9 communications and the facilities of a national securities exchange and market.

10 **III. THE PARTIES**

11 16. By Court Order dated November 9, 2007, Joel Sharenow was appointed
12 Lead Plaintiff in this action. As a result of Defendants' conduct detailed herein, Mr.
13 Sharenow suffered damages in connection with his purchase of IMH securities at
14 artificially inflated prices during the Class Period.

15 17. Defendant IMH, a Maryland corporation, is a real estate investment trust
16 ("REIT") with principle executive offices located at 19500 Jamboree Road, Irvine,
17 California 92612. IMH operates primarily through its subsidiaries, IMH Assets Corp.
18 ("IMH Assets"), Impac Warehouse Lending Group, Inc. ("IWLG"), Impac
19 Commercial Capital Corporation ("ICCC") formerly known as Impac Multi-family
20 Capital Corporation ("IMCC") and Impac Funding Corporation ("IFC"), together with
21 its wholly-owned subsidiary Impac Secured Assets Corp. ("ISAC"). Through these
22 subsidiaries, IMH operates four core businesses segments: (a) the Company's long-
23 term investment operations are conducted by IMH and IMH Assets; (b) the
24 Company's mortgage operations are conducted by IFC and ISAC; (c) the Company's
25 warehouse lending operations are conducted by IWLG; and (d) the Company's
26 commercial operations are conducted by ICC. IMH common stock is publicly
27 traded on the New York Stock Exchange (the "NYSE") under the symbol "IMH." As
28 of the filing of this TACC, IMH common stock is trading at \$0.19 per share.

1 18. Defendant Tomkinson has been Chairman of the Board of IMH since
2 April 1998 and Chief Executive Officer (“CEO”) and a Director of IMH, as well as
3 Chairman of the Board and Chief Executive Officer and Director of IFC (also known
4 as the mortgage operations) and IWLG (also known as the warehouse lending
5 operations), since their formation. From August 1995 to April 1998, he was Vice
6 Chairman of the Board and CEO of IMH. From February 1997 to May 1999, he was
7 Chairman of the Board and CEO of Impac Commercial Holdings, Inc. (“ICH”), a
8 REIT investing in commercial mortgage assets. Tomkinson served as President and
9 Chief Operating Officer (“COO”) of Imperial Credit Industries, Inc. (“ICII”) from
10 January 1992 to February 1996, and from 1986 to January 1992, he was President of
11 Imperial Bank Mortgage, one of the divisions that later was combined to become ICII
12 in 1992. He was a Director of ICII from December 1991 to June of 1999. In
13 November 1995, along with defendant Ashmore (defined below), Tomkinson
14 successfully completed the initial public offering of IMH stock. Pursuant to a Proxy
15 Statement filed by the Company on April 27, 2007, defendant Tomkinson earned
16 \$600,000 in base salary together with other compensation for a total of \$1,334,602 in
17 2006. During the Class Period, Tomkinson prepared and signed IMH public filings
18 and Sarbanes-Oxley (“SOX”) certifications filed with the SEC. Tomkinson also
19 issued statements to the investment community through press releases and through
20 IMH conference calls with analysts and investors. Thus, Tomkinson represented
21 himself as one of the key persons with specific knowledge concerning IMH’s current
22 financial state as well as its future prospects.

23 19. Defendant Ashmore has been President of IMH and its taxable
24 subsidiary, IFC, since 1995, in addition to being a Director of IMH since July of 1997.
25 Until approximately May 2006, he was also Chief Operating Officer of the Company.
26 From 1988 until 1996, defendant Ashmore was employed with ICII as Executive Vice
27 President and Director of Secondary Marketing. He was responsible for overseeing
28 and directing loan sales and securitizations, loan acquisitions, product development,

1 hedging and pipeline management. In November 1995, along with defendant
2 Tomkinson, Ashmore successfully completed the initial public offering of IMH stock.
3 Pursuant to a Proxy Statement filed by the Company on April 27, 2007, defendant
4 Ashmore earned \$500,000 in base salary together with other compensation for a total
5 of \$1,326,275 in 2006. Ashmore also issued statements to the investment community
6 through press releases and through IMH conference calls with analysts and investors.
7 Thus, Ashmore represented himself as one of the key persons with specific knowledge
8 concerning IMH's current financial state as well as its future prospects.

9 20. Defendants Tomkinson and Ashmore are collectively referred to herein
10 as the "Individual Defendants." The Individual Defendants were not only required to
11 keep themselves informed of IMH's business and finances on a daily basis, they were
12 also responsible for keeping IMH non-management directors apprised of the
13 Company's financial condition. The Individual Defendants and IMH are collectively
14 referred to herein as "Defendants."

15 **IV. CONTROL PERSON ALLEGATIONS**

16 21. At all relevant times during the Class Period, the Individual Defendants
17 were controlling persons of IMH within the meaning of §20(a) of the Exchange Act.
18 By reason of their longstanding management positions as the two top executive
19 officers of the Company, the Individual Defendants were controlling persons of IMH
20 and had the power and influence, and exercised the same, to cause it to engage in the
21 illegal conduct complained of herein.

22 22. The Individual Defendants, by virtue of their high-level positions within
23 the Company, directly participated in the management of the Company, were directly
24 involved in the day-to-day operations of the Company at the highest levels and were
25 privy to confidential proprietary information concerning the Company and its
26 business, operations, prospects, growth, finances, and financial condition, as alleged
27 herein.

28

1 23. The Individual Defendants were involved in drafting, producing,
2 reviewing, approving and/or disseminating the materially false and misleading
3 statements and information alleged herein, were aware of or recklessly disregarded the
4 fact that materially false and misleading statements were being issued regarding the
5 Company, and approved or ratified these statements, in violation of the federal
6 securities laws.

7 24. As officers and controlling persons of a publicly-held company whose
8 common stock was, and is, registered with the SEC pursuant to the Exchange Act,
9 traded on the NYSE, and governed by the provisions of the federal securities laws, the
10 Individual Defendants each had a duty to promptly disseminate accurate and truthful
11 information with respect to the Company's financial condition and performance,
12 growth, operations, financial statements, business, markets, management, earnings and
13 present and future business prospects, and to correct any previously issued statements
14 that had become materially misleading or untrue, so that the market price of the
15 Company's publicly traded securities would be based upon truthful and accurate
16 information. The Individual Defendants' material misrepresentations and omissions
17 during the Class Period violated these specific requirements and obligations.

18 25. The Individual Defendants, by virtue of their positions of control and
19 authority as officers and/or directors of the Company, were able to and did control the
20 content of the various SEC filings, press releases and other public statements
21 pertaining to the Company during the Class Period. The Individual Defendants were
22 provided with copies of the documents alleged herein to be misleading prior to or
23 shortly after their issuance and/or had the ability and/or opportunity to prevent their
24 issuance or cause them to be corrected. Accordingly, they are responsible for the
25 accuracy of the public reports and releases detailed herein.

26 26. The Company's public filings also confirm that IMH management as a
27 whole is very involved in the preparation of SEC filings and related decisions
28

1 regarding required disclosures. As noted in the Company's Form 10-Q dated May 10,
2 2006, the first day of the Class Period:

3 **ITEM 4: CONTROLS AND PROCEDURES**

4 **Evaluation of Disclosure Controls and Procedures**

5 Disclosure controls and procedures are controls and other procedures of
6 the Company that are designed to ensure that information required to be
7 disclosed by the Company in the reports that it files or submits under the
8 Securities Exchange Act of 1934 (the "Exchange Act") is recorded,
9 processed, summarized and reported, within the time periods specified in
10 the SEC's rules and forms. *Disclosure controls and procedures include*
11 *without limitation, controls and procedures designed to ensure that*
information required to be disclosed by the Company in its reports that
it files or submits under the Exchange Act is accumulated and
communicated to the Company's management, including its principal
executive and principal financial officers, or persons performing
similar functions, as appropriate to allow timely decisions regarding
required disclosure.

12 As of March 31, 2006, our CEO and CFO, *with the participation of*
13 *other management of the Company*, evaluated the effectiveness of our
14 disclosure controls and procedures, as such term is defined under Rule
15 13a-15(e) or 15(d)-15(e) promulgated under the Exchange Act, and
16 based upon that evaluation, our CEO and CFO concluded that these
disclosure controls and procedures were effective to ensure that
information required to be disclosed by us in reports that we file or
submit under the Exchange Act is recorded, processed, summarized and
reported within the time periods specified in the SEC's rules and forms.

17 **Internal Control Over Financial Reporting**

18 During the first quarter of 2006, there have been no changes to our
19 internal control over financial reporting that has materially affected, or is
20 reasonably likely to materially affect, our internal control over financial
Reporting.

21 27. Thus, while Tomkinson signed SOX certifications that were submitted
22 with IMH public filings, the foregoing language confirms that Ashmore was also
23 involved in the control of the day-to-day operations of the Company and that each of
24 the Individual Defendants had direct control over the false and misleading statements
25 detailed herein.

26 **V. CLASS ACTION ALLEGATIONS**

27 28. Lead Plaintiff brings this action as a class action pursuant to Federal
28 Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of a Class of all persons who

1 purchased or otherwise acquired IMH securities during the Class Period, and who
2 were damaged thereby, excluding the Defendants herein, members of the immediate
3 families of the Individual Defendants, any parent, subsidiary, affiliate, officer, or
4 director of IMH, any entity in which any excluded person has a controlling interest,
5 and the legal representatives, heirs, successors and assigns of any excluded person.

6 29. The members of the Class are so numerous that joinder of all members is
7 impracticable. While the exact number of members of the Class is unknown to Lead
8 Plaintiff at the present time and can only be ascertained from books and records
9 maintained by IMH and/or its agent(s), Lead Plaintiff believes that there are tens of
10 thousands of members of the Class located throughout the United States. During the
11 Class Period, IMH had over 76 million issued and outstanding shares of common
12 stock. Throughout the Class Period, IMH common stock was actively traded on the
13 NYSE.

14 30. Lead Plaintiff will fairly and adequately represent and protect the
15 interests of the members of the Class. Lead Plaintiff has retained extremely
16 competent counsel experienced in class actions and securities litigation and intends to
17 prosecute this action vigorously. Lead Plaintiff is a member of the Class and does not
18 have interests antagonistic to, or in conflict with, the other members of the Class.

19 31. Lead Plaintiff's claims are typical of the claims of the members of the
20 Class. Lead Plaintiff and all members of the Class purchased IMH securities at
21 artificially inflated prices and have sustained damages arising out of the same
22 wrongful course of conduct.

23 32. Common questions of law and fact exist as to all members of the Class
24 and predominate over any questions solely affecting individual members. Among the
25 questions of law and fact common to the Class are:

26 a. Whether the federal securities laws were violated by Defendants'
27 acts and omissions as alleged herein;

28

1 b. Whether Defendants participated in and pursued the common
2 course of conduct and fraudulent scheme complained of herein;

3 c. Whether Defendants had knowledge of (or were reckless with
4 respect to) the improper activities described herein;

5 d. Whether the statements disseminated to the investing public,
6 including investors in IMH, during the Class Period omitted and/or misrepresented
7 material facts about IMH's true financial condition, business operations and future
8 business prospects;

9 e. Whether Defendants acted knowingly or recklessly in omitting to
10 state and/or misrepresenting material facts;

11 f. Whether the market price of IMH's securities during the Class
12 Period was artificially inflated due to the non-disclosures and/or misrepresentations
13 complained of herein; and

14 g. Whether Lead Plaintiff and the other members of the Class have
15 sustained damages and, if so, the appropriate measure thereof.

16 33. A class action is superior to other available methods for the fair and
17 efficient adjudication of this controversy since, among other things, joinder of all
18 members of the Class is impracticable. Furthermore, as the damages suffered by
19 many individual Class members may be relatively small, the expense and burden of
20 individual litigation make it virtually impossible for Class members individually to
21 seek redress for the wrongful conduct alleged. Lead Plaintiff does not foresee any
22 difficulty in the management of this litigation that would preclude its maintenance as a
23 class action.

24 34. The names and addresses of the record owners of the shares of IMH
25 common stock and other securities purchased during the Class Period are available
26 from IMH and/or its transfer agent(s). Notice can be provided to persons who
27 purchased or otherwise acquired IMH common stock by a combination of published
28

1 notice and first class mail, using techniques and forms of notice similar to those
2 customarily used in other class actions arising under the federal securities laws.

3 **VI. DEFENDANTS' FRAUDULENT SCHEME**

4 **Company Background**

5 35. IMH went public as a newly formed REIT in November of 1995.
6 However, the executive management team had been running the Company's mortgage
7 banking and conduit operations since 1986, when Tomkinson co-founded ICII. In
8 1991, Wayne Snavelly ("Snavelly") took over ICII as Chairman of the Board and CEO
9 at which time the stock was trading in the \$2 a share range. Snavelly turned the
10 company into a mini-conglomerate, entering everything -- usually by acquisition --
11 from investment banking to film finance to financing buyouts of fast-food restaurants
12 by franchisees. ICII also invested heavily in subprime consumer auto loans and
13 subprime mortgages, investments which ICII was ultimately forced to write off in
14 their entirety. Also in 1991, ICII was spun off from Imperial Bank Mortgage and
15 taken public. In 1995, ICII continued to diversify and as part of that progression,
16 contributed its mortgage banking and conduit operations to form IMH which then
17 went public in November of 1995. In 1996, Tomkinson resigned as President of ICII
18 in order to devote all his efforts as CEO and Chairman of the Board of IMH.

19 36. As a REIT, IMH must distribute at least 90% of its taxable income to its
20 stockholders as dividends, of which 85% must be distributed within the taxable year in
21 order to avoid the imposition of an excise tax. REITs fiercely compete for investors
22 based on their dividend yield, such that the amount and consistency of these dividends
23 is material to investors in valuing, purchasing and selling IMH stock. Therefore,
24 throughout the Class Period, IMH regularly disclosed estimated taxable income
25 available to common stockholders, which it acknowledged was a non-generally
26 accepted accounting principle, or "non-GAAP," financial measurement, yet admitted
27 was useful information for Company investors.
28

1 37. The Company primarily operates four business segments: (a) Long-Term
2 Investment Operations, (b) Mortgage Operations, (c) Warehouse Lending Operations,
3 and (d) Commercial Operations.

4 38. The Company's Long-Term Investment Operations invests primarily in
5 Alt-A residential mortgages loans and securities backed by such loans. Income is
6 generated from the net interest spread between interest income earned on its portfolio
7 and expenses associated with the Company's financing.

8 39. The Company's Mortgage Operations is comprised of the Conduit, IFC
9 ("Conduit") and the Wholesale/Retail Division, Impac Lending Group, or "ILG." The
10 Conduit purchases primarily Alt-A mortgage loans, and to a lesser extent, second
11 mortgage loans from its network of third party correspondents and other sellers. The
12 Wholesale/Retail Division markets, underwrites, processes and funds mortgage loans
13 for both the Company's wholesale and retail customers. Mortgage Operations
14 generates income through the securitization and sale of loans to permanent investors
15 in the form of Collateralized Mortgage Obligations ("CMOs"), or Real Estate
16 Mortgage Investment Conduits ("REMICs"), or whole loan sale transactions.
17 Throughout the Class Period, IMH was under a contractual obligation to repurchase
18 certain of the loans sold or securitized through CMOs, REMICs and whole loan sales.
19 The continued access to capital through the ability to securitize mortgages through
20 CMOs, REMICs and whole loan sale transactions was crucial to enable IMH and its
21 Mortgage Operations to continue to generate revenue. Revenues are also generated by
22 Mortgage Operations from fees associated with mortgage servicing rights, master
23 service agreements and interest income earned from loans held for sale.

24 40. The Company's Warehouse Lending Operations provide short-term
25 financing to the Conduit and other approved mortgage bankers to fund mortgage loans
26 from their closing until sale or other settlement with pre-approved investors. The
27 division earns fees and a spread from the difference between its cost of capital and
28 interest earned on the capital invested.

1 41. The Company's Commercial Operations originate hybrid commercial, or
2 multi-family, mortgages with balances typically ranging from \$500,000 to \$5 million.
3 The Company's Long-Term Investment Operations invest in these assets, which
4 provide greater asset diversification. Commercial borrowers typically have higher
5 credit scores and commercial mortgages typically have lower loan to value ("LTV")
6 ratios and longer average term to payoff than Alt-A mortgages.

7 42. Throughout the Class Period, IMH focused its business on the
8 origination, acquisition and securitization of Alt-A mortgages, which represented
9 more than 92% of the loans originated or acquired by IMH in fiscal year 2006. More
10 than 75% of these mortgages were adjustable rate mortgages and greater than 25% of
11 these mortgages provided for reverse amortization.

12 43. Defendants distinguished the Company's operations from similar REITs
13 that invested in subprime loans by representing to the investing community that
14 IMH's superior underwriting of nonconforming Alt-A mortgages generated a long-
15 term, high-quality portfolio and that these Alt-A mortgages were not subject to the
16 same risks and market fluctuations as subprime loans. For example, IMH maintains a
17 website, which also responds to frequently asked questions from investors, on which
18 Defendants represented:

19 In general, Alt-A loans have stricter underwriting guidelines than
20 subprime loans. For example, to qualify for an Alt-A loan, a borrower
21 must have established at least five trade lines of credit, which might
22 include credit cards or a car loan, and each trade line of credit must be
23 consistent for a minimum of 24 months. Meanwhile, subprime
24 borrowers in general can have between zero and three trade lines
25 depending on the loan-to-value ratio, and each trade line must be
26 consistent for a minimum of six months. In addition, Alt-A borrowers
27 must not have a bankruptcy within 24 months prior to loan approval,
28 whereas there is no minimum elapsed time for subprime borrowers. To
qualify for an Alt-A loan, borrowers must have no rolling mortgage
lates, whereas subprime loans allow rolling 30 days lates within the last
12 months, up to 90 days late. We believe *Alt-A mortgages are
normally subject to lower rates of loss and delinquency than subprime
mortgages.*

1 44. Defendants attributed their ability to identify and operate in the space of
2 higher quality loans by virtue of the Company's "strict underwriting strategies;"

3 ***Our strict underwriting strategies enable us to maintain a high-quality***
4 ***long-term investment portfolio.*** For a very high percentage of loans,
5 employment is provided and verified for at least two years. Most of our
6 loans require either full documentation or stated income and verified
7 assets. In addition, any loans with a loan-to-value ratio of more than 80
8 percent have either borrower- or lender-paid mortgage insurance. ***We***
9 ***proactively adjust our underwriting guidelines based on market***
10 ***conditions and actual loan performance.***

11 **Information Provided By Former Employees of IMH**

12 45. During the course of Lead Plaintiff's investigation, numerous former
13 employees of the Company have been contacted and interviewed. The former
14 employees listed below held various positions with IMH during the Class Period.
15 These individuals had first-hand knowledge of IMH's true state of affairs, prior to,
16 during and after the Class Period as a result of the various positions they held with
17 IMH during the Class Period.²

18 46. **Former Employee 1** ("Employee 1") was employed by IMH from
19 October 2003 until July 2006 as an underwriting manager in charge of loan due
20 diligence. Employee 1's job was to perform due diligence on bulk loans by
21 conducting a sampling of each loan pool. Employee 1's job included interacting with
22 individual mortgage brokers who would sell loans to IMH in bulk, evaluating bulk
23 loans and making recommendations as to whether or not IMH should buy particular
24 loans and/or loan portfolios which were then resold in the secondary markets. Bulk
25 loans were typically valued in the \$5 million dollar range and higher. Bulk loans were
26 identified numerically with a "B" suffix.

27 47. Employee 1 reported to Kevin Gillespie ("Gillespie"), Vice President of
28 Underwriting, and Scott Hedbon ("Hedbon"), Chief Credit Officer. Both Gillespie
and Hedbon reported to Ashmore, and Gillespie and Ashmore (plus Tomkinson) were

² For the purposes of this complaint, all former employees of the Company will be referred to in the masculine, regardless of their true gender.

1 members of the Loan Committee. After conducting due diligence on a bulk loan,
2 Employee 1 would generate a detailed report regarding that loan pool, which included
3 an approval or rejection recommendation. Every report was then e-mailed to
4 Employee 1's superiors, including Tomkinson and Ashmore. As such, each
5 Individual Defendant had direct knowledge of every loan pool Employee 1
6 recommended for rejection.

7 48. Employee 1 stated that the Company's underwriting guidelines were
8 applied to bulk loans. He said that Don Smith would revise the bulk guidelines on a
9 regular basis and that bulk guidelines would change on a broker to broker basis.
10 Employee 1 further stated that when bulk loan pools did not satisfy IMH guidelines,
11 they were still approved by management on a regular basis, and specifically by
12 Ashmore. Ashmore's rationale for constantly reversing rejection recommendations
13 was that everyone in the industry was engaging in this type of practice. Ashmore
14 would justify his overriding the underwriting department recommendations by stating
15 that "everybody is doing it" or "if we didn't do it, someone else would."

16 49. One method of reversing bulk loan rejection recommendations was as
17 follows. Employee 1 would conduct due diligence on a bulk loan pool by reviewing a
18 sampling of the bulk loan, for example 10 loans. If 5 of the 10 loans did not comply
19 with IMH underwriting guidelines, the loan pool was recommended for rejection.
20 However, IMH management, under the direction of Ashmore and in violation of
21 standard due diligence procedures, would simply replace the 5 non-compliant loans
22 with 5 loans that "satisfied" IMH underwriting guidelines and then approve the *entire*
23 bulk loan pool for sale to investors.

24 50. Employee 1 also noted that certain companies were notorious for selling
25 bulk loan pools to IMH that didn't meet underwriting guidelines. These companies
26 included Pinnacle Financial Corporation (a company that IMH acquired during the
27 Class Period), Windham Mortgage, and American Home Loans. Employee 1
28 specifically recalled numerous instances of bad loan pools which were purchased from

1 third parties, some of which had to be repurchased by the Company. He remembers
2 significant pressure to approve a loan pool from Windham Mortgage which was
3 valued in the millions. He also recalled a re-purchase of approximately \$50 million
4 worth of loans by IMH from Countrywide, in June-July of 2006, because the loans
5 sold by IMH did not meet underwriting guidelines. During the same time frame, he
6 stated that Novelle was a division of IMH that had so many bad loans (loans that did
7 not comply with IMH underwriting guidelines), that the division was closed and the
8 loans were securitized and sold to investors. These loans were worth tens of millions
9 of dollars, if not more.

10 51. Employee 1 left the Company out of frustration because he said the
11 majority of loans that were being recommended for rejection were regularly approved
12 for sale to investors. As a result, he felt that performing due-diligence on bulk loan
13 pools was a waste of his time when Ashmore would just override the results of the due
14 diligence. According to Employee 1, all management was looking for was a due-
15 diligence officer to “rubber-stamp” the loan pools because investors in the securitized
16 loan pools required a certain level of quality control concerning these financial
17 instruments.

18 52. Employee 1 cited another example, in April or May of 2006, where IMH
19 was offered a loan pool from a seller with a past history of selling bad loans to the
20 Company. Employee 1 notified Linda Sepulveda (“Sepulveda”), Vice President of
21 Operations, that IMH had previously “uncovered fraud” in past loans from this seller,
22 and recommended that IMH (a) decline to purchase the loan pool and (b) permanently
23 remove the seller from the Company’s list of approved customers. Employee 1,
24 Sepulveda, and Sepulveda’s boss, Executive Vice President of Operations Kathy
25 Murray (“Murray”) discussed the loan pool and the recommendation, which Murray
26 then provided to Ashmore. Employee 1 stated that Sepulveda and Murray generally
27 agreed with his rejection recommendations on loan pools. Ashmore overrode the
28 recommendation of the underwriting department and caused IMH to buy the loan

1 pool. Murray told Employee 1 that she went so far as to warn Ashmore that purchase
2 of the loan pool could negatively affect the Company's employee retirement fund,
3 which was invested in IMH stock, telling Ashmore that "this is our retirement we're
4 talking about." However, Employee 1 indicated that companies providing bulk loan
5 pools would threaten to pull their business from IMH if the Company didn't purchase
6 bad loan pools.

7 53. Employee 1 stated that Defendants were well aware that the loans IMH
8 were buying were either bad or fraudulent. Each loan pool had a corresponding
9 spreadsheet detailing the loans, which included the borrower's credit score, loan
10 amount, and number of late payments, among other things. Besides personally
11 witnessing Gillespie and Hedbon view these spreadsheets, Employee 1 stated that
12 Gillespie and Hedbon held executive meetings with Ashmore, Tomkinson, Murray
13 and Chief Credit Officer Andy Chalwa, during which the executives reviewed the
14 spreadsheet details.

15 54. Employee 1 also stated that IMH and its outside auditor, KPMG LLP
16 ("KPMG") had strained relations as a result of accounting problems at the Company.
17 After the close of the Company's 2004 fiscal year, KPMG personnel spent weeks at
18 the Company in the Spring of 2005 to review the Company's accounting. Employee 1
19 learned from Murray and Sepulveda of tension between KPMG and the Company
20 because KPMG could not get its numbers to match the numbers reported by the
21 Company.

22 55. Employee 1 further stated that the problem was that the numbers that
23 KPMG was finding were not the same as the financial statements that management
24 published. Management was reporting numbers which were significantly more
25 positive than those found by KPMG. Employee 1 stated that he knew of this because
26 he had overheard discussions between Murray and Sepulveda. He said that Murray,
27 as an executive of IMH, had a direct view of the financials of the Company. He also
28 said that he had heard other employees in his area discuss the disagreement on

1 financials between KPMG and the Company. They stated that KPMG were
2 specialists in financial matters and that management's numbers had to be wrong.
3 Because KPMG disagreed with reported financial statements, management decided to
4 replace its auditor. Moreover, in June 2005, KPMG took the unusual step of declining
5 to remain as the Company's outside auditors.

6 **56. Former Employee 2** ("Employee 2") was employed by IMH from
7 January 2005 through October 2007, and was in Wholesale Loan Set-up. Employee 2
8 was involved in the set up of Alt-A loans. He reported that many borrowers had credit
9 scores that were low or did not have enough income. He also reported that whatever
10 loan came in, the goal was to pass it on to the next step for approval which was
11 underwriting. Employee 2 stated that the "system" was to pull credit scores to
12 determine if the prospective borrower's reported credit score was high enough to
13 qualify for the loan, a critical measure where documented income verification was
14 absent in Alt-A loans. Employee 2 said that a low credit score, however, would not
15 "kill" the loan. Rather, the loan would then go to the "deal desk," where deals were
16 regularly made to get loans approved.

17 **57.** Indeed, IMH repeatedly inflated the reported incomes of applicants in
18 order to approve loans for which the applicant would not otherwise qualify. The
19 absence of documented income verification permitted IMH to engage in such conduct.
20 For instance, Employee 2 recalled on one occasion that he and other co-workers were
21 told in advance that a senior executive of the Company had a relative that was going
22 to request a loan for at least \$1 million, and that management told them to "make it
23 work." Thus, if an applicant was not making enough money to qualify for a particular
24 loan, IMH employees would make it look like the applicant was making more money
25 than stated. The way to accomplish this was to enter the required information into the
26 system. For example, if an applicant was making \$700 per week, it would be
27 increased to \$1,000 per week.

28

1 58. Employee 2 stated that he was required to process at least 15 loans a day.
2 At the end of each day, he gave his supervisor a report which included rejects, passes,
3 the status, the name, the set up person (himself), loan number, the account executive
4 (the middle man between the broker and IMH), and the destination of the loan.

5 59. **Former Employee 3** (“Employee 3”) was employed by IMH from May
6 2004 through October 2007 in Quality Control, primarily for closed loans where
7 money had already been disbursed. Employee 3 checked for and investigated fraud.
8 Employee 3 stated that overstating the income of applicants made everyone happy,
9 realtors, account executives, and IMH senior management.

10 60. Employee 3 stated that in processing 15 loans a day, there would not be
11 enough time to check and follow the seller guides which were documented in great
12 detail. He confirmed that management encouraged the selling of loans to customers
13 who should have not been eligible for Alt-A loans. Employee 3 stated that this was
14 accomplished because 90% of the loans done at IMH did not have documentation of
15 income.

16 61. **Former Employee 4** (“Employee 4”) was employed by IMH from June
17 1997 through July 2007 and worked in Underwriting inside the Conduit Division.
18 After loans were received in the office and reviewed by underwriting, Employee 4
19 would work with brokers to resolve problems.

20 62. Employee 4 stated that IMH upper management tried to find a way to get
21 loans done and remembers disagreements regarding the loan approval process on a
22 regular basis. He recalled a specific loan that was denied by underwriting and then
23 approved by management, and loan guidelines, with the exception of Credit Scores,
24 were routinely overridden by upper management.

25 63. Employee 4 also stated that underwriters could deny loans up to five
26 hundred thousand dollars (\$500,000), but recalled that all denied loans went to upper
27 management, which included Gillespie and/or Assistant Vice President of
28 Underwriting Bob Corridan (“Corridan”). Employee 4 stated, “if there was a way to

1 make the loan, then they (upper management) wanted to do it.” He further stated that
2 “management’s theory was to approve loans,” and restated that all loans denied by
3 underwriters went to senior management. Employee 4 recalled a particular loan
4 submitted by a broker who was a former IMH employee. This loan of seven hundred
5 and fifty thousand dollars (\$750,000) was denied by underwriting but reinstated by
6 management.

7 64. Employee 4 believed that IMH was not flexible about FICO Credit
8 Scores -- the only hard, documented number they could not get around -- but all other
9 qualifications such as Payment History, Rent History, Employment History, Square
10 Footage, Charge Offs, Collections, Judgments, Cash outs, Cash Reserves, Related
11 Liens, and LTV Ratios were open to adjustment by Gillespie and Corridan in order to
12 make the loan. In fact, this witness stated that bulk loans from lenders and brokers
13 were “bad half the time.”

14 65. Employee 4 believed that the Company failed because IMH did not abide
15 by its stated underwriting standards. In response to how IMH arrived at underwriting
16 standards, Employee 4 stated that they were written by the Vice President of
17 Guidelines, Lonna Smith. Ms. Smith obtained these guidelines from other Alt-A
18 funders and “was told what to write by upper management.” This witness remembers
19 frequent conversations with Ms. Smith regarding the guidelines and that every day
20 Ms. Smith would say, in reference to the guidelines, “this is crazy,” and that when
21 management would relax the guidelines Ms. Smith tried to get management to tighten
22 them up. Employee 4 stated that he “saw it all the time where we’d deny it [a loan]
23 and they say, yeah, we could do this.”

24 66. **Former Employee 5** (“Employee 5”) was employed by IMH from July
25 2004 to July 2007 and worked as a Contract Administrator. Employee 5 reported to
26 Chris Sunderland (“Sunderland”), VP of Client Services. Employee 5 was responsible
27 for preparing a monthly Loss Estimate report for IMH management, including,
28 specifically, Tomkinson and General Counsel/EVP Ron Morrison (“Morrison”).

1 Employee 5 knows this because Sunderland would tell Employee 5 that “Joe and
2 Ron” needed the Loss Estimate reports. The reports were prepared as of the 21st of
3 each month and showed, for each originator, the date of the loan and the number of
4 days the loan was delinquent, as well as any feedback IMH received from the
5 originator regarding the delinquency.

6 **Defendants’ False and Misleading Statements**

7 67. Beginning on May 10, 2006 (the first day of the Class Period), IMH
8 issued a press release announcing its financial results for the first quarter of 2006
9 ended March 31, 2006. The Company reported that estimated taxable income
10 available to common stockholders was \$27.1 million or \$0.36 per diluted common
11 share. The Company further reported net earnings of \$85.6 million, or \$1.07 per
12 diluted common share, as compared to net earnings of \$173.6 million, or \$2.23 per
13 diluted common share for the first quarter 2005. Tomkinson commented on the
14 results, stating:

15 Given current trends, the Company remains cautiously optimistic that
16 2006 will continue to bring improved financial performance. *We believe*
17 *that our core strategy of maintaining a large portfolio of primarily*
18 *high credit quality, adjustable rate residential and commercial*
mortgages, along with our strong liquidity position and centralized
platform leave the Company well positioned to deliver long term value
to our stockholders.

19 68. Tomkinson also stressed how the Company’s underwriting guidelines
20 provided IMH with an advantage over its competitors:

21 *With respect to our mortgage business, we believe that based on*
22 *economic forecasts, we will continue to be in a healthy acquisition and*
23 *origination market.* However, as competition has intensified, many of
24 our competitors have relaxed their underwriting guidelines and created
25 what we believe to be more layered risk in the market. *Essentially, we*
26 *are not comfortable investing in certain higher risk mortgage products,*
and as a result have revised our underwriting guidelines and adjusted
pricing. Although total acquisitions and originations are down, we have
27 successfully reduced expenses, improved profitability and continue to
28 remain confident in our ability to navigate a more challenging
environment and grow our business.

69. On the same day, IMH filed its Form 10-Q with the SEC for the period
ending March 31, 2006, along with a SOX required certification signed by Tomkinson

1 that attested to, among other things, the truthfulness and accuracy of this filing. The
2 Form 10-Q reiterated the financial results stated above and also stated:

3 *We believe that Alt-A mortgages provide an attractive net earnings*
4 *profile by producing higher yields without commensurately higher*
credit losses than other types of mortgages.

5 * * *

6 *Credit Risk. We manage credit risk by acquiring for long-term*
7 *investment high credit quality Alt-A and commercial mortgages from*
our customers, adequately providing for loan losses and actively
managing delinquencies and defaults.

8 * * *

9 *We monitor our sub-servicers to make sure that they perform loss*
10 *mitigation, foreclosure and collection functions according to our*
11 *servicing guide.* This includes an effective and aggressive collection
12 effort in order to minimize the number of mortgages becoming seriously
13 delinquent. When resolving delinquent mortgages, sub-servicers are
14 required to take timely and aggressive action. The sub-servicer is
15 required to determine payment collection under various circumstances,
16 which will result in maximum financial benefit. We accomplish this by
17 either working with the borrower to bring the mortgage current or by
18 foreclosing and liquidating the property. *We perform ongoing reviews*
of mortgages that display weaknesses and believe that we maintain an
adequate loss allowance on the mortgages. When a borrower fails to
19 make required payments on a mortgage and does not cure the
20 delinquency within 60 days, we generally record a notice of default and
21 commence foreclosure proceedings. If the mortgage is not reinstated
22 within the time period permitted by law for reinstatement, the property
23 may then be sold at a foreclosure sale. At foreclosure sales, we generally
24 acquire title to the property.

25 70. On May 11, 2006, the Company held a conference call regarding its first
26 quarter earnings for 2006. Tomkinson and Ashmore were each present at the
27 conference, during which Tomkinson stated the following:³

28 As always said, the company will not price for volume, solely for
volume sake. Given what we believe to be [indiscernible] credit risk in
the market, and the losing of underwriting standards, *we are unwilling to*
assume more related risk and as a result have tightened our
underwriting guidelines, and have adjusted our pricing based upon
perceived risk.

* * *

³ Any typographical errors apparent in conference call quotations were in transcripts obtained through the Bloomberg service and have not been corrected.

1 So, although total acquisitions and originations down, *we have*
 2 *successfully reduced expenses, improved our profitability, and*
 3 *continued to remain confident in our ability to navigate a more*
challenging environment, while growing our business with loan
products that we believe will perform to our expectations.

4 * * *

5 After an extended period of minimal credit losses, it is no surprise that
 6 credit will be a bigger issue for everyone. However, *we believe that we*
 7 *have properly prepared for this increase, by primarily investing in the*
 8 *higher credit quality loans with lower loaned value, deploying industry*
 9 *leading default management strategies, while continuing to maintain*
 10 *reserves at approximately three times our current actual loan losses to*
 11 *reflect an anticipated increase in annualized losses that we believe are*
 12 *inherent to portfolio.* With respect to liquidity, we remain highly liquid
 13 and are actually looking for alternative investment strategies to redeploy
 14 cash in both, mortgage and non-mortgage related instruments. Our focus
 15 continues to be on growing our small balance commercial lending
 16 platforms nationwide. As a result of our strategy to preserve capital for
 17 expansion of our operating businesses and selective balance sheet
 18 investments, we likely will experience the best minimal balance sheet
 19 growth. Before I open up for questions, *I want to recognize Bill, Rich*
 20 *and Gretchen for their new expanded responsibilities. Their*
 21 *promotions are the result of the company's long-term succession*
 22 *planning and an internal components of our strategic growth*
 23 *initiatives.* In closing, I also want to thank our shareholders for their
 24 continued support. While we are not completely out of the woods, trends
 25 are certainly more favorable and the company remains cautiously
 26 optimistic and 2006 will continue to bring improved financial
 27 performance. *We believe that our core strategy of maintaining a large*
 28 *portfolio, primarily a high-credit quality, adjustable rate residential*
commercial mortgages along with our strong liquidity position and
centralized origination platform leaves the company well-positioned to
deliver long-term value to its shareholders.

* * *

19 <A- William Ashmore>: I think, Joe is right here and that we are always
 20 going to see a lot of people out there. We've got a lot of balance sheet
 21 capacity here the first half of the year and I believe that for us- *we*
 22 *believe that opportunities will be greater towards the end of the year*
 23 *relative to what we believed to be is a little bit more rationality from*
 24 *pricing side but also from credit standards.* And we have already – I
 25 just came back from the National Mortgage conference in Chicago, and
 26 from the number of customers that are currently approved with us not
 27 because whether they are going to be approved with us. We are hearing
 28 that they are in the process of adjusting from a credit standard
 standpoint. *So, we feel pretty confident that, even though we are*
substantially down in bulk in the first half of the year that we will be
able to respond back to higher levels, although maybe not to the levels
of last year, but also levels that would be significantly overall volume
by the end of the year.

1 71. In response to these announcements, the trading price of IMH common
2 stock surged 17.5% from a close of \$9.95 on May 9, 2006, to a high of \$11.59 on May
3 11, 2006, on unusually heavy trading volume.

4 72. On August 9, 2006, IMH issued a press release announcing its financial
5 results for the second quarter of 2006, the period ending June 30, 2006. The Company
6 reported net earnings of \$26.4 million, or \$0.30 per diluted common share, as
7 compared to a net loss of \$(55.0) million, or \$(0.78) per diluted common share for the
8 second quarter of 2005. The Company further reported that estimated taxable income
9 available to common stockholders was \$20.6 million or \$0.27 per diluted common
10 share. Defendant Tomkinson commented on the results, stating:

11 Our fundamental strategy remains the same. *We will continue to seek to*
12 *acquire, originate and invest primarily in Alt-A residential and small-*
13 *balance commercial loans, focusing on higher credit, longer duration*
14 *mortgage loans.* We are cautiously optimistic about the outlook in our
15 core businesses and our capital position is strong, however given the
16 continued challenging environment we continue to evaluate all of the
17 opportunities available to us in striving to maximize returns while
18 minimizing risk.

19 73. On August 9, 2006, IMH also filed the Company's Form 10-Q for the
20 period ending June 30, 2006, along with a SOX required certification signed by
21 Tomkinson. The 10-Q reiterated the financial results stated above and also noted:

22 *We believe that Alt-A mortgages provide an attractive net earnings*
23 *profile by producing higher yields without commensurately higher*
24 *credit losses than other types of mortgages.*

25 * * *

26 *Credit Risk. We manage credit risk by acquiring for long-term*
27 *investment high credit quality Alt-A and commercial mortgages from*
28 *our customers, adequately providing for loan losses and actively*
managing delinquencies and defaults. Alt-A mortgages are primarily
first lien mortgages made to borrowers whose credit is generally within
typical Fannie Mae and Freddie Mac guidelines, but that have loan
characteristics that make them non-conforming under those guidelines.

* * *

We monitor our sub-servicers to make sure that they perform loss
mitigation, foreclosure and collection functions according to our
servicing guide. This includes an effective and aggressive collection
effort in order to minimize the number of mortgages becoming seriously
delinquent. When resolving delinquent mortgages, sub-servicers are

1 required to take timely and aggressive action. The sub-servicer is
2 required to determine payment collection under various circumstances,
3 which will result in maximum financial benefit. We accomplish this by
4 either working with the borrower to bring the mortgage current or by
5 foreclosing and liquidating the property. ***We perform ongoing reviews
6 of mortgages that display weaknesses and believe that we maintain an
7 adequate loss allowance on the mortgages.*** When a borrower fails to
8 make required payments on a mortgage and does not cure the
9 delinquency within 60 days, we generally record a notice of default and
10 commence foreclosure proceedings. If the mortgage is not reinstated
11 within the time period permitted by law for reinstatement, the property
12 may then be sold at a foreclosure sale. At foreclosure sales, we generally
13 acquire title to the property.

14 74. On August 10, 2006, the Company held a conference call regarding its
15 second quarter earnings for 2006. Tomkinson and Ashmore were each present at the
16 conference, during which Tomkinson stated the following:

17 ***We will continue to seek to acquire, originate, invest in all-pay
18 residential small-balance commercial mortgages focusing on the
19 higher credit and longer duration assets.*** During the first half of the
20 year, approximately 91% of loans we have retained were either longer
21 duration commercial mortgages or all-time mortgages loan, they had
22 fixed rate terms of five years or more. Furthermore, consistent with our
23 strategy to lengthen the duration of the assets on our balance sheet,
24 approximately 80% of curve pipeline consisting of ALT A Hybrid
25 ARMs with an initial fixed-rate term of five years or more and our
26 commercial platform continues to grow.

27 ***In conclusion, I want to say that given the difficult environment, we
28 are generally pleased with the overall performance of the company
and, moreover, remain cautiously optimistic about our prospects for
the future.*** We believe that although the poorly taxable income has been
more volatile than anticipated, ***we believe that the company remains
well positioned to take advantage of the different opportunities in
addition to remaining competitive in the straight difficult operating
environment.*** We look forward reporting our future progress.

75. On November 8, 2006, IMH issued a press release announcing its
financial results for the third quarter of 2006, the period ending September 30, 2006.
The Company reported that estimated taxable income available to common
stockholders was \$17.3 million or \$0.23 per diluted common share.

76. On November 9, 2006, IMH filed the Company's Form 10-Q for the
period ending September 30, 2006, along with a SOX required certification signed by
Tomkinson. The 10-Q reiterated the financial results stated above and also noted:

1 *We believe that Alt-A mortgages provide an attractive net earnings*
2 *profile by producing higher yields without commensurately higher*
3 *credit losses than other types of mortgages.*

* * *

4 *Credit Risk. We manage credit risk by acquiring for long-term*
5 *investment high credit quality Alt-A and commercial mortgages from*
6 *our customers, adequately providing for loan losses and actively*
7 *managing delinquencies and defaults.* Alt-A mortgages are primarily
first lien mortgages made to borrowers whose credit is generally within
typical Fannie Mae and Freddie Mac guidelines, but that have loan
characteristics that make them non-conforming under those guidelines.

* * *

8 *We monitor our sub-servicers to make sure that they perform loss*
9 *mitigation, foreclosure and collection functions according to our*
10 *servicing guide.* This includes an effective and aggressive collection
11 effort in order to minimize the number of mortgages becoming seriously
12 delinquent. When resolving delinquent mortgages, sub-servicers are
13 required to take timely and aggressive action. The sub-servicer is
14 required to determine payment collection under various circumstances,
15 which will result in maximum financial benefit. We accomplish this by
16 either working with the borrower to bring the mortgage current or by
17 foreclosing and liquidating the property. *We perform ongoing reviews*
18 *of mortgages that display weaknesses and believe that we maintain an*
19 *adequate loss allowance on the mortgages.* When a borrower fails to
20 make required payments on a mortgage and does not cure the
21 delinquency within 60 days, we generally record a notice of default and
22 commence foreclosure proceedings. If the mortgage is not reinstated
23 within the time period permitted by law for reinstatement, the property
24 may then be sold at a foreclosure sale. At foreclosure sales, we generally
25 acquire title to the property.

26 77. On February 22, 2007, IMH issued a press release announcing its
27 financial results for the full year 2006, ending December 31, 2006. The Company
28 reported that estimated taxable income available to common stockholders was \$79.5
million or \$1.05 per diluted common share for 2006. The Company further
announced that during 2006, it paid common stock dividends of \$72.3 million, or
\$0.95 per diluted common share, excluding the fourth quarter dividend of \$0.25 per
common share declared and paid in January of 2007. Defendant Tomkinson
commented on the results, stating:

2006 was another challenging year for the industry. *Despite market*
pressures, Impac adhered to its credit, investment and liquidity
practices while utilizing its resources to focus on generating taxable
income and expanding our senior management team in order to take
advantage of opportunities ahead. Although recent trends in the

1 performance of our Long-Term Investment Portfolio have been more
 2 favorable, Impac's 2006 earnings came under continued pressure as the
 3 Federal Reserve increased short-term interest rates through the first half
 4 of the year and as average securitized mortgage collateral declined as *the*
 5 *Company tightened underwriting guidelines and adjusted pricing to*
 6 *intentionally reduce loan production and limit its exposure to what we*
 7 *believed to be deteriorating credit trends in the mortgage market. The*
 8 *prudence of this strategy became apparent as the mortgage industry*
 9 *continued to face rising early payment defaults and increasing*
 10 *repurchase activity related to late 2005 and 2006 originations.*

11 * * *

12 *As a result of this analysis of repurchased loans and delinquency*
 13 *trends in its portfolio, the Company tightened its underwriting*
 14 *guidelines seventeen times during 2006. Although these changes*
 15 *significantly decreased our loan production it resulted in a change in the*
 16 *product concentration of our acquisitions and originations to primarily*
 17 *longer duration and higher credit quality loans. So while in the last half*
 18 *of the year we continued to flush out the repurchase liability related to*
 19 *prior whole loan sale activity, based on a tightening of underwriting*
 20 *guidelines which began in the first quarter of the year, we believe that*
 21 *these changes should reduce our overall future repurchase exposure.*

22 78. On February 23, 2007, the Company held a conference call regarding its
 23 fourth quarter earnings for 2006. Tomkinson and Ashmore were each present at the
 24 conference, during which Tomkinson stated the following:

25 Before I spend time reviewing current trends, I want to say that 2006 was
 26 clearly another challenging year for our industry. *However, despite*
 27 *marketing pressures, the Company successfully maintained the*
 28 *integrity of its credit investment and liquidity practices, while using its*
 29 *resources to focus on increasing margins and expanding our senior*
 30 *management team, to take advantages of opportunities ahead. So*
 31 *while we certainly are not impervious to the dynamics of the*
 32 *marketplace, we continue to believe that our core strategies are*
 33 *building a flexible, diversified business including a long-term*
 34 *investment portfolio, a warehouse lending business, residential and*
 35 *commercial operations, along with maintaining conservative*
 36 *investments in preservation of capital, are enabling the Company to*
 37 *maneuver through this difficult environment.*

38 * * *

39 On a personal note, *I want to point out that I am very fortunate to have*
 40 *a business partner in Bill Ashmore, whom I largely credit with*
 41 *leadership and decisiveness with respect to managing important moves*
 42 *we made this year in decidedly a challenging environment, especially*
 43 *where at the beginning of last year, he made a decision to decrease*
 44 *production and significantly tighten most of our underwriting*
 45 *guidelines.*

1 79. Following these announcements the trading price of IMH common stock
2 closed at \$7.32 on February 23, 2007.

3 80. Beginning early in 2007, real estate funds, particularly those that
4 specialized in non-conforming or subprime mortgages, began suffering serious
5 declines in their stock price. In a continuing attempt to disassociate IMH from funds
6 investing in subprime loans, on March 5, 2007, the Company issued an unprecedented
7 press release which stated in relevant part:

8 ***Impac is an Alt-A Lender. Substantially all of the mortgages we***
9 ***originate or acquire are Alt-A loans. We define Alt-A loans as***
10 ***mortgages made to borrowers whose credit is generally within Fannie***
11 ***Mae and Freddie Mac guidelines, but have loan characteristics that***
12 ***make them non-conforming under those guidelines.*** As of the fourth
13 quarter 2006, 99.8% of the loans held in our portfolio had a credit grade
14 of A or A-, which means that the credit rating exceeded 620, with a
15 weighted average loan-to-value ratio of 74%. As of December 31, 2006,
16 the weighted average credit score of the Alt-A loans in our portfolio (*i.e.*
the long-term investment operations) was 697. During 2006, subprime
17 mortgages represented 0.4% of acquisitions and 0.2% of the ending
18 securitized mortgage collateral. ***We define subprime mortgages made to***
19 ***borrowers with credit ratings less than 620, or other characteristics,***
20 ***that increase the credit risk. In addition, the major credit rating***
21 ***agencies, mortgage bond investors and our industry identify the***
22 ***Company as an Alt-A lender.***

23 * * *

24 ***The Company continues to meet all of its loan repurchase obligations.***
25 In the future we expect loan repurchase obligations to decline based on a
26 reduction in whole loan sales and improved credit and duration
27 characteristics. ***Since January 2006, we have tightened our***
28 ***underwriting guidelines 20 times,*** which resulted in a 40% decline in
total production primarily related to bulk acquisitions. ***Although, total***
acquisitions and originations declined, we believe we have benefited
from an improved credit risk and duration profile.

81. Tomkinson further stated that:

23 ***It is unfortunate for our stockholders that the Company continues to***
24 ***be put in the same category as subprime lenders, when essentially we***
25 ***have no exposure to subprime loans. In anticipation of a downturn in***
26 ***the industry, Impac, since January 2006, began increasing its loan loss***
27 ***reserves, preserving capital, increasing its pricing and tightening its***
28 ***underwriting guidelines with the intent to further improve the***
performance of our Alt-A mortgage portfolio.

82. On March 14, 2007, the Company filed its annual report on Form 10-K,
for the year ended December 31, 2006, with the SEC. The Form 10-K was signed by

1 Tomkinson and Ashmore, and included SOX certifications signed by Tomkinson.
 2 The 10-K included similar statements contained in prior public filings during the Class
 3 Period. For example, the 10-K reiterated the following:

4 ***We believe that Alt-A mortgages provide an attractive net earnings***
 5 ***profile by producing higher yields without commensurately higher***
 6 ***credit losses than other types of mortgages.***

6 * * *

7 ***Credit Risk. We manage credit risk by retaining high credit quality Alt-***
 8 ***A mortgages and commercial mortgages from our customers,***
 9 ***adequately providing for loan losses and actively managing***
 10 ***delinquencies and defaults. We believe that by improving the overall***
 11 ***credit quality of our long-term mortgage portfolio we can consistently***
 12 ***generate stable future cash flow and net earnings.*** During 2006 we
 13 retained primarily Alt-A mortgages with an original weighted average
 14 credit score of 701 and an original weighted average LTV ratio of 72
 15 percent. Alt-A mortgages are primarily first lien mortgages made to
 16 borrowers whose credit is generally within typical Fannie Mae and
 17 Freddie Mac guidelines, but that have loan characteristics that make
 18 them non-conforming under those guidelines. We primarily acquire non-
 19 conforming "A" or "A-" credit quality mortgages, collectively, Alt-A
 20 mortgages.

14 * * *

15 ***We monitor our subservicers to make sure that they perform loss***
 16 ***mitigation, foreclosure and collection functions according to our***
 17 ***servicing guide.*** This includes an effective and aggressive collection
 18 effort in order to minimize the number of mortgages which become
 19 seriously delinquent. When resolving delinquent mortgages, sub-
 20 servicers are required to take timely and aggressive action. The sub-
 21 servicer is required to determine payment collection under various
 22 circumstances, which will result in maximum financial benefit. We
 23 accomplish this by either working with the borrower to bring the
 24 mortgage current or by foreclosing and liquidating the property. ***We***
 25 ***perform ongoing review of mortgages that display weaknesses and***
 26 ***believe that we maintain an adequate loss allowance on our mortgages.***

21 * * *

22 ***Liquidity Risk.*** We employ a leverage strategy to increase assets by
 23 financing our long-term mortgage portfolio primarily with securitized
 24 mortgage borrowings, reverse repurchase agreements and capital, then
 25 using cash proceeds to acquire additional mortgage assets. We retain
 26 ARMs and FRMs that are acquired and originated from the mortgage
 27 and commercial operations and finance the acquisition of those
 28 mortgages, during this accumulation period, with reverse repurchase
 agreements. After accumulating a pool of mortgages, generally between
 \$200 million and \$2.5 billion, we sell the mortgages in the form of
 collateralized mortgage obligations, whole loan sales or REMICs.
 REMICs may be on balance sheet or off balance sheet. Under either
 accounting methods, our cash invested on the date of securitization is
 generally between 3 percent and 5 percent of the borrowings. Our

1 strategy is to sell or securitize our mortgages within 90 days in order to
2 reduce the accumulation period that mortgages are outstanding on short-
3 term reverse repurchase facilities, which reduces our exposure to margin
4 calls and reduces spread risk on these facilities. Securitized mortgage
5 borrowings are classes of bonds that are sold to investors of mortgage-
6 backed securities and as such are not subject to margin calls. In addition,
7 the securitized mortgage borrowings generally require a smaller initial
8 cash investment as a percentage of mortgages financed than does interim
9 reverse repurchase financing. Additionally, as interest rates decline our
10 requirement to maintain certain cash collateral balances increases, which
11 reduces our cash and cash equivalents available for use in operations. As
12 of December 31, 2006 our cash collateral balance totaled \$19.1 million,
13 as compared to \$16.6 million as of December 31, 2005. ***Because of the
14 historically favorable loss rates of our Alt-A mortgages, we have
15 received favorable credit ratings on our securitized mortgage
16 borrowings from credit rating agencies, which has increased the
17 percentage of bonds issued and reduced our required initial capital
18 investment.***

19 83. On March 29, 2007, the Company issued a press release entitled "*Impac
20 Mortgage Holdings, Inc. Declares First Quarter Dividend Payment of \$0.10 per
21 Common Share Completes \$1.4 Billion Securitization of Loans Totaling \$2.4 Billion
22 for First Quarter 2007.*" Tomkinson stated in this press release that:

23 ***We believe that the strategies implemented since January of 2006,
24 which included tightening of our underwriting guidelines, strategically
25 reducing our loan volume and utilizing our proprietary and third party
26 analytical technology has allowed the Company to navigate through
27 this difficult credit environment.***

28 84. On May 10, 2007, IMH issued a press release announcing its financial
results for the first quarter of 2007, the period ending March 31, 2007. Among other
things, the Company reported that estimated taxable income available to common
stockholders was \$18.9 million or \$0.25 per diluted common share.

85. On May 11, 2007, the Company filed its Form 10-Q for the period ending
March 31, 2007, which included a SOX certification signed by Tomkinson. As with
prior public filings, the Form 10-Q stated:

***Credit Risk. We manage credit risk by retaining high credit quality Alt-
A mortgages and commercial mortgages from our customers,
adequately providing for loan losses and actively managing
delinquencies and defaults.*** During first quarter 2007 we retained
primarily Alt-A mortgages with an original weighted average credit
score of 706 and an original weighted average LTV ratio of 71 percent.
Alt-A mortgages are primarily first lien mortgages made to borrowers
whose credit is generally within typical Fannie Mae and Freddie Mac

1 guidelines, but that have loan characteristics including higher loan
 2 balances, higher loan-to-value ratios or lower documentation
 3 requirements, that may make them non-conforming under those
 4 guidelines. We primarily acquire non-conforming "A" or "A-" credit
 5 quality mortgages, collectively, Alt-A mortgages.

6 * * *

7 ***We monitor our sub-servicers to attempt to ensure that they perform***
 8 ***loss mitigation, foreclosure and collection functions according to our***
 9 ***servicing guide.*** This includes an effective and aggressive collection
 10 effort in order to minimize the number of mortgages which become
 11 seriously delinquent. When resolving delinquent mortgages, sub-
 12 servicers are required to take timely and aggressive action. The sub-
 13 servicer is required to determine payment collection under various
 14 circumstances, which will result in the maximum financial benefit. This
 15 is accomplished by either working with the borrower to bring the
 16 mortgage current or by foreclosing and liquidating the property. ***We***
 17 ***perform an ongoing review of mortgages that display weaknesses and***
 18 ***believe that we maintain an adequate loan loss allowance on our***
 19 ***mortgages.*** When a borrower fails to make required payments on a
 20 mortgage and does not cure the delinquency within 60 days, we
 21 generally record a notice of default and commence foreclosure
 22 proceedings. If the mortgage is not reinstated within the time permitted
 23 by law for reinstatement, the property may then be sold at a foreclosure
 24 sale. At foreclosure sales, we generally acquire title to the property.

25 * * *

26 ***Because of the historically favorable loss rates of our Alt-A mortgages,***
 27 ***we have generally received favorable credit ratings on our securitized***
 28 ***mortgage borrowings from credit rating agencies, which has decreased***
 29 ***our initial capital investment, in the form of over collateralization.*** The
 30 ratio of total assets to total equity, or "leverage ratio," was 27.14 to 1 as
 31 of March 31, 2007 as compared to 23.38 to 1 as of December 31, 2006.
 32 The use of leverage at these levels allows us to grow our balance sheet
 33 by efficiently employing available capital. ***We continually monitor our***
 34 ***leverage ratio and liquidity levels to attempt to insure that we are***
 35 ***adequately protected against adverse changes in market conditions.***

36 86. On May 11, 2007, the Company held a conference call regarding its first
 37 quarter earnings for 2007. Tomkinson and Ashmore were each present at the
 38 conference, during which Tomkinson stated that "***we were way ahead of the curve in***
 39 ***tightening our underwriting guidelines, which reduced total production volume and***
 40 ***as a result we have overall less total exposure on our balance sheet and in our***
 41 ***ongoing purchase liability.***"

42 87. Thereafter, on May 21, 2007, the Company issued a press release entitled
 43 "***Impac Mortgage Holdings, Inc. to Create National Retail Franchise and Bolster***
 44

1 *Wholesale Lending through Strategic Transaction with Pinnacle Financial*
 2 *Corporation.*” The release stated in pertinent part that:

3 Mr. Joseph R. Tomkinson, Chairman and Chief Executive Officer of
 4 Impac Mortgage Holdings, Inc. commented, ***“The Company has been***
 5 ***looking to strategically diversify its Alt-A correspondent and wholesale***
 6 ***lending franchise in a number of different ways. The transaction with***
 7 ***Pinnacle, which has been a long-time customer of the Company, is a***
 8 ***critical step in this strategy.*”** Mr. Tomkinson further commented,
 9 ***“With this transaction, we immediately become a nationwide retail***
 10 ***lender with specific expertise in the Prime Agency business including***
 11 ***the first-time homebuyer and emerging markets.*** Pinnacle’s East Coast
 12 operations centers and wholesale lending division complements the
 13 Company’s growing wholesale lending franchise. The retail lending
 14 platform will also be a great distribution channel for other product
 15 initiatives we anticipate deploying, including FHA and reverse
 16 mortgages.”

17 88. On June 12, 2007, Ashmore spoke at an analyst conference held by
 18 Keefe, Bruyette & Woods. At the time, certain analysts had published reports
 19 questioning whether Alt-A loans, as loans provided without verified documentation of
 20 the applicant’s income, were really just re-named subprime loans, subject to the same
 21 enormous risks attendant to subprime loans. During the conference, Ashmore stated
 22 that IMH’s Alt-A loans were not subprime loans, and that IMH understood the
 23 “nuances” of Alt-A loans, and that IMH’s Alt-A loans to applicants with
 24 undocumented income levels performed largely the same as income-verified loans:

25 I think the evolution here that we are going to see is a migration of the
 26 more successful alt-A issuers -- and there are going to be some
 27 differentiation between them -- are going to be the ones that have moved
 28 towards understanding better the nuances of this particular product.

29 And for example, performance of our stated income product, which
 30 makes about 40% of our portfolio, ***we found that there was little to no***
 31 ***performance differences between a stated-income-verified asset and a***
 32 ***stated income -- stated assets type of loan, where we were viewing this***
 33 ***years ago that there would be better performance if there was***
 34 ***verification of assets, but at the end of the day, there doesn't appear to***
 35 ***be any measurable difference between the two.***

36 89. Defendants’ statements regarding IMH’s underwriting guidelines,
 37 investments in high credit quality loans, maintenance of adequate loan loss reserves,
 38 and long term value to shareholders, were false and misleading when made. For
 39 instance, Defendants knew that, notwithstanding their statements to the public

1 regarding the “high quality” of the Company’s mortgages, IMH was approving loans
2 and buying loan pools from less creditworthy borrowers, in violation of the
3 Company’s own underwriting guidelines. As a result, IMH’s Alt-A mortgages faced
4 many of the same risks and discounts in securitization as subprime mortgages; the
5 Company was experiencing an increasing level of loan delinquencies, which was
6 depressing its earnings and simultaneously increasing the numbers of mortgage loans
7 the Company was required to repurchase under the terms of the whole-loan sale
8 agreements; the Company was experiencing increasing difficulties in selling its loans
9 because of the lower credit worthiness of the borrowers and the higher rates of default
10 and, therefore, was required to decrease prices.

11 90. Defendants repeated touting of the Company’s underwriting guidelines
12 was likewise false and misleading because, in fact, Ashmore and other Company
13 executives were not following the guidelines and were overriding the decisions of
14 those whose job it was to apply the guidelines. At the same time that Tomkinson
15 stated on May 11, 2006, February 22, 2007, February 23, 2007, March 5, 2007 and
16 March 29, 2007 that the Company was “tightening” guidelines, the Company was
17 actually relaxing its guidelines, at times at the direct instruction of Ashmore.
18 Ashmore nonetheless stood next to Tomkinson at the conference calls and remained
19 silent when Tomkinson was making these patently false statements.

20 91. Defendants’ statements that the Company has received favorable credit
21 ratings on its securitized mortgage borrowings was false and misleading because
22 Defendants knew that lax standards at the Company lead to loans by less credit worthy
23 borrowers. According to IMH’s underwriting manager in charge of loan due
24 diligence, the Company wanted “rubber-stamp” due diligence. Basic standards of due
25 diligence were not followed, as bad loans in a sample were simply swapped out to
26 proclaim the entire bulk loan pool as acceptable. As a result of the guidelines ignored
27 by Ashmore and other members of management and the sham due diligence, the
28

1 Company was sitting on a time bomb of bad loans it had packaged in securitizations
2 and would be liable to buy back bad loans when those loans failed.

3 92. As a result of the foregoing, the Company was overstating its financial
4 results by failing to write-down the value of certain of the loans in its portfolio as
5 these loans had declined substantially in value. Moreover, as highlighted below, the
6 Company would be forced to exit the Alt-A lending business and to liquidate its real
7 estate owned portfolio. As such, Defendants' statements concerning the financial
8 well-being and future business prospects of the Company throughout the Class Period
9 were lacking in any reasonable basis when made.

10 **IMH Abandons the Alt-A Market**

11 93. On August 7, 2007 (the first trading day after the end of the Class
12 Period), the Company issued a press release in which Tomkinson stated:

13 *The Company has made all margin calls to date. Further, we have*
14 *negotiated sales of approximately \$1.0 billion of our \$1.6 billion of*
15 *loans held on financed facilities.* These negotiated sales are scheduled
to close over the next 30 days. In the interim, loans held in aggregate
continue to generate a positive net interest spread.

16 *In light of the continued and widely publicized volatility in the*
17 *secondary and securitization markets, we have suspended funding on*
loans previously referred to as Alt-A loans.

18 94. On this news, the Company's shares fell \$0.61 per share, or
19 approximately 35%, to close on August 7, 2007 at \$1.09 per share, on unusually heavy
20 trading volume.

21 95. On August 10, 2007, the Company announced that it would not be able to
22 file its second quarter report on Form 10-Q for the period ending June 30, 2007, on
23 time.

24 96. On August 14, 2007, the Company belatedly announced its financial
25 results for the second quarter of 2007. IMH reiterated its suspension of Alt-A lending,
26 and blamed the "deterioration of industry conditions" on the relatively poor
27 performance of loans originated in 2006. The Company also disclosed that:
28

1 *Additionally, the Company did not declare a cash dividend on our*
2 *common stock during the second quarter of 2007, as the dividend may*
3 *have been considered a return of capital. Currently, we do not*
4 *anticipate paying any further dividends on our common stock for the*
5 *remainder of 2007.*

6 97. On August 14, 2007, the Company also filed its quarterly report for the
7 period ending June 30, 2007, on Form 10-Q with the SEC. The 10-Q revealed that the
8 Company was reporting an estimated taxable loss per diluted share of (\$0.25)
9 compared to income of \$0.25 for the first quarter of 2007 and \$0.27 for the second
10 quarter of 2006.

11 98. Defendants explained that the decline in the Company's financial results
12 was the result of a longstanding trend which began in 2006 that led to margin calls and
13 defaults under the Company's lines of credit and financing arrangement:

14 *The underlying reason for the deterioration of industry conditions*
15 *appears to be initially based on the relatively poor performance of*
16 *loans originated in 2006. This decline in performance has led to a lack*
17 *of confidence by bond investors and lenders and their reluctance to*
18 *invest/lend as aggressively. These market conditions have also*
19 *increased the Company's loss severities during the second quarter.*

20 Recently these market conditions required us to focus on preserving
21 liquidity. *We have received a significant amount of margin calls from*
22 *our lenders and continue to receive margin calls due to the current*
23 *market environment, we intend to satisfy these margin calls; however,*
24 *we cannot make any assurances we will satisfy margin calls received in*
25 *the future. In addition, we are operating under waivers provided by*
26 *certain lenders, as certain lenders have waived certain covenants that*
27 *require us to maintain positive net income and certain leverage ratios.*
28 *There can be no assurance that we will be able to obtain future waivers*
or new waivers if covenants are not met, or that we will be able to
obtain waivers on favorable terms. Further, we have negotiated sales of
approximately \$1.0 billion of our \$1.6 billion of loans held on financed
facilities.

99. The financial results also revealed that during the second quarter, the
Company was forced to increase its loan loss reserves by more than 455%, from
\$29,374,000 to a staggering \$162,981,000. This \$133.6 million increase in provision
for loan losses, was combined with a \$12.4 million charge off for the impairment of
goodwill, and an \$8.5 million increase in provision for REO losses generated from the
foreclosure of non-performing mortgages. This caused the Company to report net loss

1 of \$152.5 million or \$2.05 per share for the second quarter of 2007 as compared to a
2 net loss of \$121.7 million or \$1.65 per share, for the first quarter of 2007.

3 100. On August 22, 2007, in order to substantially reduce operating expenses,
4 the Company announced that it laid off approximately 350 employees of its
5 nationwide workforce and the closure of certain mortgage origination facilities.

6 101. On September 18, 2007, the Company further announced that it would
7 quit substantially *all* of its mortgage lending operations, that it had fired an additional
8 144 employees, and that the Company did not expect to pay dividends for the rest of
9 the year.

10 102. In the subsequent months, IMH's losses continued to escalate and the
11 viability of the Company was in serious question. Further, on November 13, 2007, the
12 Company filed a Form 12b-25 with the SEC indicating that its Form 10-Q for the
13 quarter ended September 30, 2007, would be filed late.

14 103. On January 30, 2008, *The Wall Street Journal* reported that the Federal
15 Bureau of Investigation ("FBI") had launched a subprime probe and that fourteen
16 companies were being investigated for fraud. The article also reported that the FBI
17 was investigating corporate cases in parallel with the SEC and noted in pertinent part:

18 The Federal Bureau of Investigation has opened criminal inquiries into 14
19 companies as part of an investigation of the subprime-mortgage crisis, FBI
20 officials said. The probe is focusing on accounting fraud, securitization of
21 loans and insider trading, among other areas. The FBI wouldn't identify the
22 companies under investigation but said it is looking into allegations of fraud in
23 various stages of the mortgage process, from companies that bundled the loans
24 into securities to the banks that ended up holding them.

25 * * *

26 The bureau's probes are the latest in a long list of investigations into the
27 collapse of the subprime-mortgage market. In addition to the Justice
28 Department and the SEC, various state attorneys general have begun their own
investigations, including New York Attorney General Andrew Cuomo, who is
looking into possible wrongdoing connected to mortgage-backed securities
bought and sold by Wall Street firms.

* * *

FBI officials say the bureau is working with the SEC, which has opened more than three dozen investigations in the subprime-mortgage business,

1 *including the role of mortgage brokers, investment banks and due-diligence*
2 *companies involved in the underwriting and securitization of loans.* The SEC
3 is also reviewing the procedures of credit-ratings companies that rated
4 mortgage-backed debt. *In recent weeks, the SEC has sent subpoenas to some*
5 *companies involved in the underwriting and securitization process, people*
6 *familiar with the matter say.*

7 104. Shortly thereafter, in May of 2008, Defendants announced that IMH
8 suffered a \$2.05 *billion* loss for 2007, after touting the Company's accolades and
9 Defendants' efforts to avoid such an event throughout the Class Period. Moreover,
10 the *Company announced that the SEC was "inquiring into its operations."*

11 105. On September 23, 2008, Christopher Cox, Chairman of the SEC, testified
12 before the United States Senate Committee on Banking, Housing, and Urban Affairs.
13 In his testimony, Chairman Cox noted the extensive level of fraud being investigated
14 in the mortgage industry at all levels and stated in pertinent part:

15 *First and foremost, the SEC is a law enforcement agency, and we have*
16 *devoted an extraordinary level of enforcement resources to hold*
17 *accountable those whose violations of the law have contributed to the*
18 *subprime crisis and the loss of confidence in our markets. We have*
19 *over 50 pending law enforcement investigations in the subprime area.*
20 Our Office of Compliance Inspections and Examinations has initiated
21 examinations of the effectiveness of broker-dealers' controls to prevent
22 the spread of false information intended to manipulate securities prices.
23 The Division of Enforcement has undertaken a sweeping investigation
24 into market manipulation of financial institutions, focused on broker-
25 dealers and institutional investors with significant trading activity in
26 financial issuers and with positions in credit default swaps. The reason
27 for this aggressive enforcement investigation is the significant
28 opportunities that exist for manipulation in the \$58 trillion CDS market,
which is completely lacking in transparency and completely unregulated.

Our subprime enforcement efforts fall primarily into three broad
categories: first, subprime lenders; second, investment banks, credit
rating agencies, insurers and others involved in the securitization
process; and third, banks and broker-dealers who sold mortgage-
backed investments to the public.

We are investigating whether mortgage lenders properly accounted for
the loans in their portfolios, and whether they established appropriate
loan loss reserves. In connection with the sale of mortgage-backed
securities and collateralized debt obligations, we are investigating the
role of the various parties involved in the securitization process.
Among other things, we are focused on whether lenders adequately
disclosed the risk profiles of underlying loans, whether they valued
their portfolios appropriately, and whether they made adequate risk
disclosures to investors.

1 106. Today, the future of IMH hangs by a thread. Not only is the Company
2 being investigated by the SEC, IMH is struggling to continue as a going concern. As
3 of October 27, 2008, IMH shares closed at \$0.19 per share and will likely be de-listed
4 from the NYSE in the immediate future. Thus, as a result of Defendants' fraud, the
5 proposed Class members have lost virtually all of their investment in IMH.

6 **VII. INAPPLICABILITY OF SAFE HARBOR**

7 107. As alleged herein, Defendants acted with scienter in that they: (a) knew,
8 at the time that they were released, that the public documents and statements issued or
9 disseminated in the name of IMH were materially false and misleading or omitted
10 material facts; (b) knew that such statements or documents would be issued or
11 disseminated to the investing public; (c) knew that persons were likely to reasonably
12 rely on those misrepresentations and omissions; and (d) knowingly and substantially
13 participated, or were involved in, the issuance or dissemination of such statements or
14 documents as primary violations of the federal securities law.

15 108. As set forth elsewhere herein, Defendants, by virtue of their: (a) receipt
16 of information reflecting the true facts regarding IMH; (b) control over, and/or receipt
17 of IMH's allegedly materially misleading misstatements; and (c) access to confidential
18 proprietary information concerning IMH were informed of, participated in and knew
19 of the fraudulent scheme alleged herein. With respect to non-forward-looking
20 statements and/or omissions, Defendants knew and/or recklessly disregarded the
21 falsity and misleading nature of the information which they caused to be disseminated
22 to the investing public.

23 109. Defendants' false and misleading statements and omissions do not
24 constitute forward-looking statements protected by any statutory safe harbor. The
25 statements alleged to be false and misleading herein all relate to facts and conditions
26 existing at the time the statements were made. No statutory safe harbor applies to any
27 of Defendants' material false or misleading statements.
28

1 110. Alternatively, to the extent that any statutory safe harbor is intended to
2 apply to any “forward-looking” statement pled herein, Defendants are liable for false
3 forward-looking statements because, at the time each forward-looking statement was
4 made, the speaker knew or had actual knowledge that the forward-looking statement
5 was materially false or misleading, and the forward-looking statement was authorized
6 and/or approved by a director and/or executive officer of IMH who knew that the
7 forward-looking statement was false or misleading. None of the historic or present
8 tense statements made by Defendants was an assumption underlying or relating to any
9 plan, projection or statement of future economic performance, as they were not stated
10 to be such an assumption underlying or relating to any projection or statement of
11 future economic performance when made nor were any of the projections or forecasts
12 made by Defendants expressly related to or stated to be dependent on those historic or
13 present tense statements when made.

14 **VIII. APPLICABILITY OF PRESUMPTION OF RELIANCE:**
15 **THE FRAUD-ON-THE-MARKET DOCTRINE**

16 111. The market for IMH securities was open, well-developed and efficient at
17 all relevant times for the following reasons (among others):

18 a. The Company’s shares met the requirements for listing, and were
19 listed and actively traded on the NYSE;

20 b. As a regulated issuer, IMH filed periodic public reports with the
21 SEC;

22 c. IMH regularly communicated with public investors via established
23 market communication mechanisms, including through regular disseminations of
24 press releases on the national circuits of major newswire services and through other
25 wide-ranging public disclosures, such as communications with the financial press and
26 other similar reporting services;

27 d. The market reacted to public information disseminated by IMH;

28

1 e. IMH was followed by numerous material securities analysts
2 employed by major brokerage firms who wrote reports which were distributed to the
3 sales force and certain customers of their respective brokerage firms. Each of these
4 reports was publicly available and entered the public marketplace;

5 f. The material misrepresentations and omissions alleged herein
6 would tend to induce a reasonable investor to misjudge the value of IMH securities;
7 and

8 g. Without knowledge of the misrepresented or omitted material
9 facts, Lead Plaintiff and the other members of the Class purchased or otherwise
10 acquired IMH securities between the time Defendants made the material
11 misrepresentations and omissions and the time Defendants' fraud was disclosed,
12 during which time the price of IMH securities was inflated by Defendants'
13 misrepresentations and omissions.

14 112. As a result of the foregoing, the market for IMH securities promptly
15 digested current information regarding IMH from all publicly available sources and
16 reflected such information in IMH securities prices. Under these circumstances, all
17 purchasers and acquirers of IMH securities during the Class Period suffered similar
18 injury through their purchase or acquisition of IMH securities at artificially inflated
19 prices, and a presumption of reliance applies.

20 **IX. LOSS CAUSATION**

21 113. Throughout the Class Period, the prices of the Company's securities were
22 artificially inflated as a direct result of Defendants' fraudulent misrepresentations
23 regarding the Company's financial condition and results.

24 114. The Company's financial condition and results constitute material
25 information to Lead Plaintiff and the other members of the Class. Had the truth been
26 disclosed to the market at or before the end of the Class Period, Lead Plaintiff and the
27 other Class members would not have purchased IMH stock at all, or would have done
28

1 so only at substantially lower prices than the artificially inflated prices which they
2 actually paid.

3 115. When the truth about the Company was revealed, the inflation that had
4 been caused by Defendants' misrepresentations and omissions was swiftly eliminated
5 from the price of the Company's securities, causing significant losses to Lead Plaintiff
6 and the other Class members.

7 116. The decline in the Company's securities price following the revelations
8 of the Company's fraudulent practices, and the resulting losses suffered by Lead
9 Plaintiff and the other members of the Class, are directly attributable to the market's
10 reaction to the disclosure of information that had previously been misrepresented or
11 concealed by Defendants, and to the market's adjustment of the Company's securities
12 price to reflect the newly emerging truth about the Company's financial condition.

13 117. Defendants' fraudulent conduct, as alleged herein, proximately caused
14 foreseeable losses to Lead Plaintiff and the other members of the Class.

15 **X. CAUSES OF ACTION**

16 **COUNT I**

17 **Violation of §10(b) of the Exchange Act**
18 **and Rule 10b-5 Promulgated Thereunder**

19 **(Against all Defendants)**

20 118. Lead Plaintiff repeats and realleges each and every allegation contained
21 above as if fully set forth herein.

22 119. This Count is asserted by Lead Plaintiff on behalf of himself and the
23 Class against all Defendants and is based upon §10(b) of the Exchange Act, 15 U.S.C.
24 §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5, promulgated thereunder.

25 120. During the Class Period, Defendants carried out a plan, scheme and
26 course of conduct which was intended to and, throughout the Class Period, did: (a)
27 deceive the investing public, including Lead Plaintiff and other Class members, as
28 alleged herein; (b) artificially inflate and maintain the market price of IMH's

1 securities; and (c) cause Lead Plaintiff and other members of the Class to purchase or
2 otherwise acquire IMH's securities at artificially inflated prices. In furtherance of this
3 unlawful scheme, plan and course of conduct, Defendants, and each of them, took the
4 actions set forth herein.

5 121. Defendants: (a) employed devices, schemes, and artifices to defraud; (b)
6 made untrue statements of material fact and/or omitted to state material facts
7 necessary to make the statements not misleading by use of means or instrumentalities
8 of interstate commerce; and (c) engaged in acts, practices, and a course of business
9 which operated as a fraud and deceit upon the purchasers and acquirers of the
10 Company's securities in an effort to maintain artificially high market prices for IMH's
11 securities in violation of §10(b) of the Exchange Act and Rule 10b-5.

12 122. As a result of Defendants' making and/or their substantial participation in
13 the creation of affirmative statements and reports to the investing public, Defendants
14 had a duty to promptly disseminate truthful information that would be material to
15 investors in compliance with the integrated disclosure provisions of the SEC as
16 embodied in SEC Regulation S-K (17 C.F.R. §229.10, *et seq.*) and other SEC
17 regulations, including accurate and truthful information with respect to the Company's
18 operations and performance so that the market prices of the Company's publicly
19 traded securities would be based on truthful, complete and accurate information.
20 Defendants' material misrepresentations and omissions as set forth herein violated that
21 duty.

22 123. Defendants engaged in the fraudulent activity described above knowingly
23 and intentionally or in such a reckless manner as to constitute willful deceit and fraud
24 upon Lead Plaintiff and the Class. Defendants knowingly caused their reports and
25 statements to contain misstatements and omissions of material fact as alleged herein.

26 124. As a result of Defendants' fraudulent activity, the market price of IMH
27 was artificially inflated during the Class Period.
28

1 125. In ignorance of the true financial condition of IMH, Lead Plaintiff and
2 other members of the Class, relying on the integrity of the market and/or on the
3 statements and reports of IMH containing the misleading information, purchased or
4 otherwise acquired IMH securities at artificially inflated prices during the Class
5 Period.

6 126. The market price of IMH's securities materially declined upon the public
7 disclosure of the true facts which had been misrepresented or concealed as alleged
8 herein.

9 127. Lead Plaintiff's (and the Class') losses were proximately caused by
10 Defendants' active and primary participation in IMH's scheme to defraud the
11 investing public by, among other things, falsifying the Company's finances and
12 operations. Lead Plaintiff (and the members of the Class) purchased IMH securities in
13 reliance on the integrity of the market price of those securities, and Defendants
14 manipulated the price of IMH securities through their misconduct as described herein.
15 Furthermore, Defendants' misconduct proximately caused Lead Plaintiff's (and the
16 Class') losses. Lead Plaintiff's (and the Class') losses were a direct and foreseeable
17 consequence of Defendants' failure to disclose and their concealment of, *inter alia*,
18 the true state of the business operations and financial condition of IMH.

19 128. Throughout the Class Period, Defendants were aware of material non-
20 public information concerning IMH's fraudulent conduct (including the false and
21 misleading accounting statements). Throughout the Class Period, Defendants
22 willfully and knowingly concealed this adverse information regarding IMH's falsified
23 revenue figures, and Lead Plaintiff's (and the Class') losses were the foreseeable
24 consequence of Defendants' concealment of this information.

25 129. As a direct and proximate cause of Defendants' wrongful conduct, Lead
26 Plaintiff and other members of the Class suffered damages in connection with their
27 respective purchases and sales of IMH securities during the Class Period.

28

COUNT II

Violation of §20(a) of the Exchange Act

(Against the Individual Defendants)

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2
3
4 130. Lead Plaintiff repeats and realleges each and every allegation contained
5 above as if fully set forth herein.

6 131. As alleged herein, the Individual Defendants acted as controlling persons
7 of IMH within the meaning of §20(a) of the Exchange Act, 15 U.S.C. §78t(a). By
8 virtue of their longstanding positions as the two top executive officers of the Company
9 and their direct control of the Company's operations and virtually all public
10 communications with shareholders, these individuals had the power to influence and
11 control and did influence and control, directly or indirectly, the decision-making of the
12 Company, including the content and dissemination of the various statements which
13 Lead Plaintiff contends are false and misleading. The Individual Defendants were
14 provided with or had unlimited access to copies of the Company's internal reports,
15 press releases, public filings and other statements alleged by Lead Plaintiff to be
16 misleading prior to and/or shortly after these statements were issued and had the
17 ability to prevent the issuance of the statements or cause the statements to be
18 corrected.

19 132. In particular, the Individual Defendants had direct involvement in the
20 day-to-day operations of the Company and therefore, are presumed to have had the
21 power to control or influence the particular transactions giving rise to the securities
22 violations as alleged herein, and exercised the same.

23 133. As set forth above, the Individual Defendants and IMH committed a
24 primary violation of §10(b) and Rule 10b-5 of the Exchange Act by the acts and
25 omissions alleged in this TACC. By virtue of their positions as controlling persons of
26 IMH, the Individual Defendants are therefore liable pursuant to §20(a) of the
27 Exchange Act. As a direct and proximate result of the Individual Defendants'
28 wrongful conduct, Lead Plaintiff and the other members of the Class suffered

1 damages in connection with their purchase or acquisition of IMH securities during the
2 Class Period.

3 **XI. PRAYER FOR RELIEF**

4 WHEREFORE, Lead Plaintiff prays for relief and judgment, as follows:

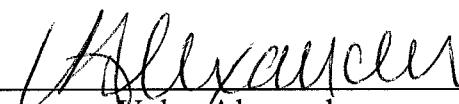
- 5 A. Determining that this action is a proper class action;
- 6 B. Awarding compensatory damages in favor of Lead Plaintiff and the other
7 Class members against all Defendants, jointly and severally, for all damages sustained
8 as a result of Defendants' wrongdoing, in an amount to be proven at trial, including
9 interest thereon;
- 10 C. Awarding Lead Plaintiff and the Class their reasonable costs and
11 expenses incurred in this action, including counsel fees and expert fees; and
- 12 D. Awarding such other and further relief as the Court may deem just and
13 proper.

14 **XII. JURY TRIAL DEMANDED**

15 Lead Plaintiff hereby demands a trial by jury on all claims set forth herein.

16 DATED: October 27, 2008

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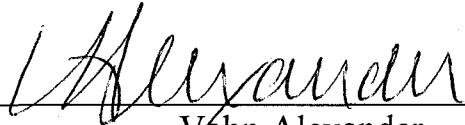
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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document *via* the United States Postal Service to any non-CM/ECF participants indicated on the Manual Notice List.



Vahn Alexander

Mailing Information for a Case 8:07-cv-00970-AG-MLG

Electronic Mail Notice List

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Manual Notice List

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- (No manual recipients)