UNITED STATES DEPARTMENT OF HOUSING

AND

URBAN DEVELOPMENT

TITLE VIII

CONCILIATION AGREEMENT

Between

[redacted] **Complainant**
[redacted] **Complainant**

and

Charles Schwab Bank, Respondent

Approved by the FHEO Regional Director on behalf of the United States Department of Housing and Urban Development

FHEO Case Number: 04-09-0053-8

A. THE PARTIES AND SUBJECT PROPERTY

SUBJECT PROPERTY

The subject property is located at [redacted], ("the Property") a single-family dwelling that is owned by [redacted] ("Complainant I").

COMPLAINANTS

[redacted] belongs to a class of persons who are protected from unlawful housing discrimination under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 ("the Fair Housing Act or the "Act") based on her physical/ mental disability.

[redacted] ("Complainant II"), [redacted] son, alleged that his mother was discriminated against by Respondent in violation of the Fair Housing Act and he was also harmed by Respondent's discriminatory conduct, therefore he is an aggrieved person under the Act.

RESPONDENTS

Paul V. Woolway is the President of Charles Schwab Bank ("Respondent's Agent").

Timothy Delgado and Kelly Brinkley serve as customer service representatives of Charles Schwab Bank. It is alleged that Delgado and Brinkley discriminated against Complainants [redacted] based upon [redacted]'s disability.

Charles Schwab Bank ("Respondent") is located at 211 Main Street, San Francisco, CA 94105.

B. STATEMENT OF FACTS

Complainant II possesses the power of attorney for his mother's personal affairs because she has a physical and mental disability. His mother is Complainant I, [redacted]. On February 19, 2008, Complainant II, [redacted], attempted to submit a loan application to Charles Schwab Bank via telephone on behalf of his mother. Complainant II desired approval of the loan consistent with the terms and conditions offered to all applicants by the Respondent. Complainant II was advised that the Respondent does not accept power of attorneys for incapacitated borrowers during the loan application process and would not accept [redacted]'s information from her son to complete the loan application. Complainant II alleged that he made numerous attempts to contact the Respondent regarding the policy in an attempt to enter into a loan agreement with the Respondent. According to Complainant II, the Respondent refused to allow them to submit a loan application. Complainant II believes the Respondent's failure to address his concerns and accept the loan application was based upon his mother's

disability. He believes that the Respondent's actions were in violation of the Fair Housing Act, as amended.

Respondent denies the allegation of discrimination. Respondent's policies and procedures do not prohibit the taking of an application from an incapacitated borrower by means of a durable power of attorney. It is the Bank's position that the alleged violation was the result of a miscommunication or an individual's failure to appropriately understand and execute Respondent's policies and procedures with respect to incapacitated borrowers and powers of attorney. In addition, Respondent asserts that the subject complaint was not filed within the applicable statute of limitations.

C. TERMS OF AGREEMENT

1. This Conciliation Agreement (hereinafter "Agreement") shall govern the conduct of the Complainants and Respondent *(i.e.,* Charles Schwab Bank) for a period of three (3) years from the effective date of the Agreement.

D. EFFECTIVE DATE

2. Complainant and Charles Schwab Bank ("the Parties") expressly agree that this Agreement constitutes neither a binding contract under State or Federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the FHEO Region IV Director, or his or her designee.

E. GENERAL PROVISIONS

3. Charles Schwab Bank consents to this Agreement as the Respondent named in the complaint filed with HUD on October 22, 2008.

4. The Parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. The Parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.

5. The Department acknowledges that this Agreement does not constitute, and shall not be construed as an admission by the Respondent of any violation of any Federal, State, or local civil rights, statute, law, ordinance or regulation. The Respondent denies any liability and has agreed to settle the subject complaint to avoid any further expenses and delay associated with any investigation and administrative proceedings.

6. The Respondent acknowledges that it has a duty not to discriminate under the Act, and that it is unlawful to retaliate against any person because that person has a complaint, testified, or

participated in any manner in a proceeding under the Act. The Respondent further acknowledges that any subsequent retaliation or discrimination against the Complainants constitute both a material breach of this Agreement, and is a statutory violation of the Act.

7. This Agreement, after it has been approved by the FHEO Region IV Director, or his or her designee, is binding upon the Complainants, and the Respondent, its employees, successors and assigns and all others active in the ownership or operation of the subject lending institution.

8. It is understood that, pursuant to Section 810(b)(4) of the Act and upon approval of this Agreement by the FHEO Region IV Director, or his or her designee, this is a public document.

9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondent made pursuant to the Act, or any other complaint within the Department's jurisdiction.

10. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification or waiver; (b) the amendment, modification or waiver is in writing; and (c) the amendment, modification, or waiver is approved, and signed by the FHEO Region IV Director.

11. The Parties agree that the execution of this Agreement may be accomplished by separate execution of consent to this Agreement, the original executed signature pages to be attached to the body of Agreement to constitute one document.

12. The Respondent hereby forever waives, releases and covenants not to sue the Department or Complainants, their heirs, executors, assigns, employees, and attorneys with regard to any, and all claims, damages and injuries of whatever presently known or unknown, arising out of the subject matter of HUD's Title VIII Case Number 04-09-0053-8, or which could have been filed in any action or suit arising from said subject matter.

13. The Complainants hereby forever waive, release and covenant not to sue the Department or Respondent, past and present officers and/or directors, authorities, its heirs, executors, successors, assigns, agents, employees, and attorneys with regard to any, and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD's Title VIII Case Number 04-09-0053-8, or which could have been filed in any action or suit arising from said subject matter.

14. The parties waive any and all defenses to HUD's jurisdiction over the matter resulting from allegations that HUD failed to provide proper notice to parties within the statute of limitations period.

F. RELIEF FOR THE COMPLAINANT

15. The Respondent agrees to take the following actions, and, as set forth in this Agreement, will provide the Department with written certification that these requirements have been met:

    a. Within ten (10) days of the effective date of this Agreement, Respondent shall tender the total amount of $30,000 (Thirty Thousand Dollars) in full as final settlement of the subject complaint. The settlement payment is to be dispersed as described below.

        i. Under this Agreement, Complainant [redacted] is entitled to receive a total of $25,000 (Twenty-Five Thousand Dollars) in monetary relief. However, Complainant [redacted] has specifically directed that in lieu of direct payment to her, $10,000 of the $25,000 amount be paid as a charitable donation on her behalf to the St. Francis Xavier Church ([redacted]), a 501(c)(3) charitable organization designated by the Complainant. St. Francis Xavier Church did not provide any advice or assistance to the Complainant in the filing of the fair housing complaint; therefore, the $10,000 is not compensation for services, but rather a charitable donation from Complainant I. The certified or cashier's check shall be made payable to St. Francis Xavier Church and delivered to Complainant II by express mail to [redacted]. A copy of the check and any related correspondence should be provided to HUD pursuant to Paragraph 1.22 of this Agreement.

        ii. The Respondent agrees to pay by certified or cashier's check the amount of $5,000 (Five Thousand Dollars) to Complainant [redacted] and $15,000 (Fifteen Thousand Dollars) to Complainant [redacted] within ten (10) days of the date the Agreement is finalized. Both checks shall be delivered [redacted] via express mail. Copies of the checks and any related correspondence to the parties should be provided to the Department pursuant to Paragraph 1.22 of this Agreement.

    b. The Respondent agrees that a representative from the Office of the President of Charles Schwab Bank shall contact Complainant [redacted] directly to extend a formal apology and provide an explanation of the changes being made to the Bank's lending procedures concerning disabled borrowers and the use of a power of attorney.

G. RELIEF IN THE PUBLIC LNTEREST

16. Within sixty (60) days of the effective date of this Agreement, Respondent shall inform all of its agents and employees responsible for compliance with this Agreement, including any officers and board members, of the terms of this Agreement and shall provide each such person with a copy of the Agreement. The Respondent agrees to provide a certification of compliance with this provision to the Miami FHEO Program Center Director at the address identified in Paragraph 1.21.

17. Within sixty (60) days of the effective date of this Agreement, Respondent will update or clarify its loan application procedures to include appropriate assistance for potential or current disabled applicants, including the acceptance of a durable power of attorney.

    a. The Respondent shall include a provision that no potential or current disabled or incapacitated applicant will incur additional costs or fees resulting from use of a power of attorney or any other reasonable accommodations it provides to such applicants to access its services.

    b. The Respondent will provide HUD with copies of the existing and amended procedures within seventy-five (75) days of the revision for review and approval.

    c. Within ninety (90) days of the effective date of this Agreement, the Respondent shall update the Mortgage Education section of its website to include a question and answer section regarding the use of powers of attorney during the application process. This section of the website will also outline other accessibility services provided to disabled applicants/borrowers by Charles Schwab Bank. In addition, this section of the website shall include definitions of incapacitated and disabled applicants, ensuring that the definition of disabled applicants is in accordance with the Fair Housing Act.

    d. The Respondent shall advise all Charles Schwab Bank employees responsible for processing and servicing loans of its policies with respect to potential or current disabled or incapacitated applicants, including its policies regarding the use of powers of attorney.

    e. The Respondent agrees to provide a certification of compliance with the foregoing provisions to the Miami Program Center Director at the address identified in Paragraph 1.21.

18. Respondent agrees not to retaliate against or interfere with any other person on account of their exercise of any right under the Act or on account of their having aided or encouraged any other person in the exercise or enjoyment of their rights under the Act.

19. Respondent will provide Fair Lending/Fair Housing Training for its current employees and any new employees involved in the processing and servicing of loans within twelve months of the effective date of this Agreement and report compliance to Miami FHEO Program Center Director at the address identified in Paragraph 1.21.

H. MONITORING

20. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement the Department may inspect all relevant records at Charles Schwab Bank, as needed. The Respondent agrees to provide full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

I. REPORTING AND RECORD KEEPING

21. The Respondent shall provide certification of compliance with all of the provisions of this Agreement to the FHEO Miami Program Center. All required documentation must be submitted to:

    Candace M. Tapscott, Director
    U.S. HUD - Miami FHEO Center
    Brickell Plaza, 909 SE First Avenue, Suite 500
    Miami, FL 33131

22. Within fifteen (15) days of the effective date of this Agreement, the Respondent shall transmit a photocopy of the checks identified in Paragraph F. together with a copy of the delivery tracking report, certified mail receipt, or signed release from the Complainant, as evidence of delivery, to the Miami Program Center Director (see address in Paragraph I.21).

J. CONSEQUENCES OF BREACH

23. Whenever the Department has reasonable cause to believe that the Respondent has breached this Agreement, the matter may be referred to the Attorney General of the United States, to commence a civil action in the appropriate U.S. District Court pursuant to §§ 810(c) and 814(b)(2) of the Act.

K. SIGNATURES

[redacted] Feb. 10, 2011
Date

Authorized Signatory
On behalf of the Complainants

Paul V. Woolway 3/8/11
Date

Paul V. Woolway, President, Charles Schwab Bank
Authorized Signatory
On behalf of Charles Schwab Bank

L. APPROVAL (On behalf of the United States Department of Housing and Urban Development)

Carlos M. Tapscott 3/10/11
Date

for Carlos Osegueda
FHEO Region IV Director,
Office of Fair Housing and Equal Opportunity