

1 CLOTHILDE V. HEWLETT
Commissioner
2 MARY ANN SMITH
Deputy Commissioner
3 AMY J. WINN
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7 Department of Financial Protection and Innovation
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8 San Diego, California 92108
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10 Attorneys for Complainant

11 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
12 OF THE STATE OF CALIFORNIA

13	In the Matter of:)	OAH Case No. 2024060796
)	
14	THE COMMISSIONER OF FINANCIAL)	NMLS ID: 2191655
15	PROTECTION AND INNOVATION,)	
)	SETTLEMENT AGREEMENT
16	Complainant,)	
)	
17	v.)	Hearing Date: December 10-11, 2024
18)	Time: 9:00 a.m.
)	Location: 402 West Broadway, Suite 600
19	INDEPENDENT MORTGAGE)	San Diego, CA 92101
20	BROKERS LLC,)	Video/Telephonic Hearing
)	
21	Respondent.)	
)	

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23 The Commissioner of Financial Protection and Innovation (Commissioner) and Independent
24 Mortgage Brokers LLC (Respondent) (collectively the Parties) enter this Settlement Agreement
25 with respect to the following facts:

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I.

Recitals

A. The Department of Financial Protection and Innovation (Department), through the Commissioner, has jurisdiction over the licensing and regulation of persons and entities engaged in the business of finance lending or brokering under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.).

B. Independent Mortgage Brokers LLC is a limited liability company organized in the State of Colorado and has its principal place of business located at 6825 E Tennessee Ave., Suite 415, Denver, Colorado 80224.

C. On or around October 28, 2022, Respondent filed an application for a finance broker license with the Commissioner (File No. 60DBO-176354, hereinafter MU1 Application) pursuant to Financial Code section 22101. Respondent filed its MU1 Application on the Nationwide Multistate Licensing System and Registry (NMLS) under NMLS identification number 2191655.

D. Ryan Joseph Davis (Davis), NMLS identification number 149797, is the majority owner and managing member of Respondent.

E. Nathan Evan Jennison (Jennison), NMLS identification number 2122717, is a co-owner and managing member of Respondent.

F. The Commissioner conducted an independent investigation and found that Respondent made material misrepresentations and omissions in its MU1 Application. In NMLS, Davis and Jennison present a business plan where Respondent is the only entity that will conduct mortgage brokering activities under its CFL license. However, the Commissioner found that Respondent’s business plan disclosed in its MU1 Application contained false statements of material fact when compared to the business plan that Respondent marketed and advertised to the public online.

G. The Commissioner found that Respondent’s business plan on its website allows unlicensed entities to conduct unlicensed brokering activity by branding themselves under Independent Mortgage Brokers LLC or by marketing the entities’ affiliation as “powered by IMBLLC” and allowing their entity to share the same office location and

1 Respondent’s unique NMLS identification number. In essence, Respondent’s business plan as
2 marketed and advertised online is a form of “net-branching.”

3 H. On February 6, 2024, the Commissioner personally served Respondent with the
4 following documents: cover letter, Notice of Intention to Issue Order Denying California Finance
5 Broker License Pursuant to Financial Code Section 22109 (Notice of Intention), Statement of Issues,
6 Statement to Respondent, Notice of Defense [blank], Government Code Sections 11507.5, 11507.6,
7 and 11507.7, and Complainant’s Discovery Request Under Government Code Section 11507.6
8 (collectively Notice of Intention and Statement of Issues).

9 I. On February 14, 2024, Respondent timely filed its Notice of Defense with the
10 Commissioner requesting a hearing to contest the Statement of Issues.

11 J. It is the intention of the Parties to resolve the Statement of Issues without the
12 necessity of a hearing.

13 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
14 contained therein, the Parties agrees as follows:

15 **II.**

16 **Terms and Conditions**

17 1. Purpose. This Settlement Agreement resolves the issues before the Commissioner set
18 forth in paragraphs A through I above, in a manner that avoids the expense of a hearing and other
19 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
20 purposes, policies, and provisions of the CFL.

21 2. Waiver of Hearing Rights. Respondent acknowledges the Commissioner is ready,
22 willing, and able to proceed with the administrative enforcement action described in paragraphs A
23 through I above, and Respondent hereby waives the right to a hearing, and to any reconsideration,
24 appeal or other right to review which may be afforded pursuant to the CFL; the California
25 Administrative Procedure Act (APA), the California Code of Civil Procedure (CCP), or any other
26 provision of law; by waiving such rights, Respondent effectively consents to this Settlement
27 Agreement becoming final.

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1 3. Conditions Triggering Revocation. Respondent agrees that, if the Commissioner in
2 the future grants its application for a CFL license, that application and/or resulting license will be
3 subject to conditions for a 36-month period from the date of licensure. Should the Commissioner
4 make a finding that Respondent has violated or is violating any provision of the CFL or any other
5 rule, regulation, or law during that 36 month period, the Commissioner may, in her discretion,
6 automatically revoke any license held by or deny any pending application(s) of Respondent.
7 Respondent hereby waives any notice and hearing rights to contest such revocation or denial(s)
8 which may be afforded it under the CFL, APA, CCP, or any other applicable provision of law.
9 Respondent further expressly waives any requirement for the filing of an accusation under
10 Government Code section 11415.60, subdivision (b), in connection with the Commissioner’s
11 revocation of its license under this paragraph.

12 4. CFL Application Withdrawal. Respondent agrees to withdraw its CFL
13 Application within 90 days. Respondent acknowledges that a failure to withdraw the
14 Application within 90 days of the effective date of this Settlement Agreement will result in
15 the Application being considered withdrawn within the meaning of Financial Code section
16 22109, subdivision (b).

17 5. Additional Conditions. Respondent, Davis, and Jennison agree not to apply
18 for a CFL license for a period of six months following the date of this Settlement
19 Agreement.

20 6. Full and Final Settlement. The Parties hereby acknowledge and agree that this
21 Settlement Agreement is intended to constitute a full, final, and complete resolution of the
22 violations described herein, and that no further proceedings or actions will be brought by the
23 Commissioner in connection with these matters except under the CFL or any other provision
24 of law, excepting therefrom any proceeding to enforce compliance with the terms of this
25 Settlement Agreement.

26 7. Failure to Comply with Settlement Agreement. Respondent agrees that if it
27 fails to comply with the terms of this Settlement Agreement, the Commissioner may, in
28 addition to all other available remedies she may invoke under the CFL, summarily suspend

1 or revoke the CFL licenses of Respondent until Respondent is in compliance. Respondent waives
2 any notice and hearing rights to contest such summary suspensions or revocations which may be
3 afforded under the CFL, APA, CCP, or any other provision of law.

4 8. Information Willfully Withheld or Misrepresented. Notwithstanding paragraph 13
5 below, this Settlement Agreement may be revoked, and the Commissioner may pursue any and all
6 remedies available under the law against Respondent if the Commissioner discovers that
7 Respondent knowingly or willfully withheld or misrepresented any material information.

8 9. Future Actions by Commissioner. If Respondent fails to comply with any terms of
9 this Settlement Agreement, the Commissioner may institute proceedings for any and all violations
10 otherwise resolved under this Settlement Agreement. The Commissioner reserves the right to bring
11 any future actions against Respondent, or any of its partners, owners, officers, shareholders,
12 directors, employees or successors for any and all unknown violations of the CFL.

13 10. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
14 Commissioner’s ability to assist any other governmental agency (city, county, state, or federal) with
15 any prosecution, administrative, civil or criminal brought by that agency against Respondent or any
16 other person based upon any of the activities alleged in this matter or otherwise.

17 11. Headings. The headings to the paragraphs of this Settlement Agreement are inserted
18 for convenience only and will not be deemed a part hereof or affect the construction or
19 interpretation of the provisions hereto.

20 12. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or
21 successors in interest.

22 13. Reliance. Each of the Parties represents, warrants, and agrees in that executing this
23 Settlement Agreement it has solely relied on the statements set forth herein and the advice of its
24 own counsel, if represented. Each of the Parties further represents, warrants, and agrees that in
25 executing this Settlement Agreement it has placed no reliance on any statement, representation, or
26 promise of any other party or any other person or entity not expressly set forth herein, or upon the
27 failure of any party or any other person or entity to make any statement, representation or disclosure
28 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in

1 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
2 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
3 Settlement Agreement.

4 14. Waiver, Amendments and Modifications. No waiver, amendment, or
5 modification of this Settlement Agreement will be valid or binding unless it is in writing and
6 signed by each of the Parties. The waiver of any provision of Settlement Agreement will not
7 be deemed a waiver of any other provision. No waiver by either party of any breach of, or of
8 compliance with, any condition or provision of this Settlement Agreement by the other party
9 will be considered a waiver of any other condition or provision or of the same condition or
10 provision at another time.

11 15. Full Integration. This Settlement Agreement is the final written expression
12 and the complete and exclusive statement of all the agreements, conditions, promises,
13 representations, and covenant between the Parties with respect to the subject matter hereof,
14 and supersedes all prior or contemporaneous agreements, negotiations, representations,
15 understandings, and discussions between and among the Parties, their respective
16 representatives, and any other person or entity, with respect to the subject matter covered
17 hereby.

18 16. No Presumption Against Drafting Party. Each party acknowledges that it has
19 had the opportunity to draft, review, and edit the language of this Settlement Agreement.
20 Accordingly, the Parties intend that no presumption for or against the drafting party will
21 apply in construing any part of this Settlement Agreement. The Parties waive the benefit of
22 CCP section 1654 as amended or corresponding provisions of any successor statute, which
23 provided that in cases of uncertainty, language of a contract should be interpreted most
24 strongly against the party that caused the uncertainty to exist.

25 17. Independent Legal Advice. Each of the Parties represents, warrants, and
26 agrees that it has received, or had the opportunity to receive, independent advice from its
27 attorney(s) and/or representatives with respect to the advisability of executing this
28 Settlement Agreement.

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To the Commissioner: Vanessa T. Lu
Senior Counsel, Enforcement Division
Department of Financial Protection and Innovation
1450 Frazee Road, Suite 315
San Diego, CA 92018
Vanessa.Lu@dfpi.ca.gov

24. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

25. Public Record. Respondent acknowledges that this Settlement Agreement is a matter of public record.

26. Effective Date. This Settlement Agreement shall become final and effective when signed by all the Parties and delivered by the Commissioner’s agent via e-mail to Respondent at jrosenthal@hargraversenthal.com.

27. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the obligations set forth herein.

Dated: November 20, 2024

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: November 20, 2024

By _____
INDEPENDENT MORTGAGE BROKERS LLC

APPROVED AS TO FORM:

Joshua Rosenthal, Esq.
Counsel for Respondent Independent Mortgage Brokers LLC