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Deputy Commissioner
2 SEAN ROONEY
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7
8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of:

13 THE COMMISSIONER OF FINANCIAL
14 PROTECTION AND INNOVATION,

15 Complainant,
16 v.

17
18 RIALTO ESCROW COMPANY,
19

20 Respondent.
21

) OAH Case No.: 2025010921

) FILE NO.: 9630843

) SETTLEMENT AGREEMENT

) Hearing Date: April 28 and 29, 2025

) Hearing Time: 9:00 a.m.

) Hearing Place: Via Videoconference/telephone

) Hearing Officer: Unassigned _____
22

23 The Commissioner of Financial Protection and Innovation (Commissioner) and Respondent
24 Rialto Escrow Company (Rialto Escrow) (collectively, the Parties), enter into this Settlement
25 Agreement 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 escrow agents pursuant to the California Escrow Law (Financial Code section 17000 et seq.) (Escrow Law) and the rules and regulations promulgated thereunder.

B. Rialto Escrow, at all relevant times herein, is a California corporation in good standing, duly formed and existing pursuant to the laws of the State of California and authorized to conduct business in the State of California.

C. Rialto Escrow is an escrow agent licensed by the Commissioner pursuant to the Escrow Law of the State of California (Escrow Law) (California Financial Code § 17000 et seq.). At all relevant times herein, Rialto Escrow had its place of business at 141 West Rialto Avenue, Rialto, California. Rialto Escrow's escrow agent license is in "inactive" status.

D. Kenneth Everhart is the president of Rialto Escrow and is authorized to enter into this Settlement Agreement on behalf of Rialto Escrow.

E. Rialto Escrow was required to file its annual audit report for fiscal year ending December 31, 2021. However, it has failed to do so, violating Section 17406 of the Escrow Law.

F. Under Section 17406, all licensees governed by the Escrow Law are required to file an annual audit report containing audited financial statements within 105 days of the fiscal year's end. Rialto Escrow's fiscal year ends on December 31. Despite multiple demands from the Commissioner's staff, Rialto Escrow has not complied with this requirement.

G. The Commissioner is authorized to impose a penalty under Section 17408 for Rialto's failure to file its annual audit report. As of August 2024, the accrued penalty is calculated as follows:

| Date | Number of Days | Fines per Day | Fine Amount |
|-------------------|----------------|---------------|--------------|
| 6/13/22 – 6/17/22 | 5 | \$100.00 | \$500.00 |
| 6/18/22 – 8/26/24 | 801 | \$500.00 | \$400,500.00 |

H. The Department commenced a remote regulatory examination on July 6, 2021. A

1 notice of examination letter, along with an attached “Items Needed for the Examination” list, was
2 emailed to Rialto Escrow’s designated email address. The examiner in charge spoke with Everhart by
3 phone and informed him she would email a OneDrive shared folder link for uploading the requested
4 documents. Throughout the examination, the examiner repeatedly requested the necessary items to
5 complete the review. However, despite multiple demand letters issued by the Department and follow-
6 ups from the examiner in charge, Rialto Escrow consistently failed to provide all required
7 documentation, in violation of Section 17405 for failing to allow inspection of Rialto Escrow’s books
8 and records, as well as Section 17408 for failing to respond to the Commissioner’s written demands
9 for books and records.

10 I. On December 13, 2022, Rialto Escrow submitted a written request to surrender its
11 license. In response, the Commissioner, through her staff, provided Rialto Escrow with instructions
12 for completing the license surrender process in compliance with Section 17600(b), including the
13 requirement to submit a closing audit within 105 days of the request. Despite multiple reminders and
14 follow-ups, Rialto Escrow has failed to submit the required closing audit.

15 J. On December 23, 2024, the Commissioner served Rialto Escrow with the Notice of
16 Intention, Accusation and other accompanying documents dated December 20, 2024.

17 K. Rialto Escrow timely filed its Notice of Defense, and this matter is currently set for
18 hearing on April 28 and 29, 2025, before the Office of Administrative Hearings, Los Angeles.

19 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
20 contained herein, the Parties agree as follows:

21 **II.**

22 **Terms and Conditions**

23 1. **Purpose.** This Settlement Agreement is entered into for the purpose of judicial
24 economy and expediency, and to avoid the expense and uncertainty of a hearing or other possible
25 litigation, protects consumers, is in the public interest, and is consistent with the purpose, policies,
26 and provisions of the applicable law.

27 2. **Revocation Order.** Rialto Escrow agrees to an order revoking its escrow agent license
28 for violating Financial Code sections 17405 and 17406 of the Escrow Law (Revocation Order). The

1 Revocation Order takes effect immediately and is final.

2 3. Waiver of Hearing Rights. Rialto Escrow acknowledges that the Commissioner is
3 ready, willing, and able to proceed with the administrative enforcement action described above in
4 Paragraphs E through I. Rialto Escrow hereby waives the right to any hearings and to any
5 reconsideration, appeal, or other right to review which may be afforded by the Escrow Law, the
6 California Administrative Procedure Act (APA), the California Code of Civil Procedure (CCP), or
7 any other provision of law in connection with this matter herein. By waiving such rights, Rialto
8 Escrow effectively consents to this Settlement Agreement becoming final.

9 4. Full and Final Settlement Agreement. The Parties hereby acknowledge and agree that
10 this Settlement Agreement is intended to constitute a full, final, and complete resolution of this
11 matter. No further proceedings or actions will be brought by the Commissioner in connection with
12 the Findings in this matter, subject to the exceptions set forth in Paragraph 5 below.

13 5. Exceptions to Full and Final Settlement Agreement. Nothing in Paragraph 4 above
14 or anything else in this Settlement Agreement shall be construed to prohibit or restrict or preclude
15 the Commissioner from taking any of the following actions:

- 16 a) Bringing a proceeding to enforce compliance with the terms of this Settlement
17 Agreement;
- 18 b) Bringing a proceeding based upon discovery of violations of the Escrow Law occurring
19 after the effective date of this Settlement Agreement;
- 20 c) Bringing a proceeding based upon discovery of violation of the Escrow Law which does
21 not form the basis for this Settlement Agreement; or
- 22 d) Bringing a proceeding based upon discovery of violations of the Escrow Law which
23 Rialto Escrow knowingly concealed from the Commissioner.

24 6. Independent Legal Advice. Each of the parties represents, warrants, and agrees that in
25 executing this Settlement Agreement it has relied solely on the statements set forth herein and on the
26 advice of its attorney(s) and/or representative(s).

27 7. Reliance. Each of the parties represents, warrants, and agrees that in executing this
28 Settlement Agreement it has placed no reliance on any statement, representation, or disclosure of

1 anything whatsoever. The Parties have included this clause: (1) to preclude any claim that any party
2 was in any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
3 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
4 Settlement Agreement.

5 8. Full Integration. This Settlement Agreement is the final written expression and the
6 complete and exclusive statement of all the agreements, conditions, promises, representations, and
7 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or
8 contemporaneous agreements, negotiations, representations, understandings, and discussions between
9 and among the Parties, their respective representatives, and any other person or entity, with respect to
10 the subject matter covered hereby.

11 9. No Presumption Against Drafting Party. Each party acknowledges that it has had the
12 opportunity to draft, review, and edit the language of this Settlement Agreement. Accordingly, the
13 Parties intend that no presumption for or against the drafting party will apply in construing any part
14 of this Settlement Agreement. The Parties waive the benefit of California Civil Code section 1654 as
15 amended or corresponding provisions of any successor statute, which provide that in cases of
16 uncertainty, language of a contract should be interpreted most strongly against the party that caused
17 the uncertainty to exist.

18 10. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
19 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the
20 parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of any
21 other provision. No waiver by either party of any breach of, or of compliance with, any condition or
22 provision of this Settlement Agreement by the other party will be considered a waiver of any other
23 condition or provision or of the same condition or provision at another time.

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

27 12. Governing Law. This Settlement Agreement will be governed by and construed in
28 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court,

1 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
2 forum to the maintenance of such action or proceeding in such court.

3 13. Authority to Sign. Each signatory hereto represents that the person signing this
4 Settlement Agreement possesses all necessary capacity and authority to sign and enter into this
5 Settlement Agreement and undertakes the obligations set forth herein.

6 14. Voluntary Agreement. Rialto Escrow enters into this Settlement Agreement
7 voluntarily and without coercion and acknowledges that no promises, threats, or assurances have
8 been made by the Commissioner or any officer, or agent thereof, about this Settlement Agreement.
9 The Parties each represent and acknowledge that they are executing this Settlement Agreement
10 completely voluntarily and without any duress or undue influence of any kind from any source.

11 15. Public Record. Rialto Escrow acknowledges that this Settlement Agreement is a
12 matter of public record.

13 16. Counterparts. This Settlement Agreement may be executed in one or more separate
14 counterparts, each of which when: so executed, shall be deemed an original. Such counterparts shall
15 together constitute a single document.

16 17. Signatures. This Settlement Agreement may be executed by facsimile or electronic
17 signature, and any such signature by any party hereto shall be deemed to be an original signature and
18 shall be binding on such party to the same extent as if such facsimile or electronic signature were an
19 original signature.

20 18. Effective Date. This Settlement Agreement shall become final and effective when
21 signed by all parties and delivered by the Commissioner’s agent via e-mail to ken912e@gmail.com.

22 19. Notice. Any notices required under this Settlement Agreement shall be provided to
23 each party at the following addresses:

24 If to Rialto Escrow: Kenneth Everhart
25 Rialto Escrow Company
26 141 West Rialto Avenue
27 Rialto, California 92376
28 Ken912e@gmail.com

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If to the Commissioner:

Marlou de Luna, Senior Counsel
Department of Financial Protection and Innovation
320 W. 4th Street, Suite 750
Los Angeles, California 90013-2344
Marlou.deluna@dfpi.ca.gov

Dated: March 10, 2025
Los Angeles, California

KHALIL MOHSENI
Commissioner of Financial Protection
and Innovation



By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: February 28, 2025

By: _____
KENNETH EVERHART
On Behalf of Rialto Escrow Company