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8  
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
10 OF THE STATE OF CALIFORNIA

11  
12 In the Matter of: ) CRD ID NO.: 165821  
)  
13 THE COMMISSIONER OF BUSINESS ) OAH CASE NO.: 2017100006  
14 OVERSIGHT, )  
)  
15 Complainant, ) SETTLEMENT AGREEMENT  
)  
16 v. )  
)  
17 BUTTONWOOD TREE MANAGEMENT, )  
18 LLC )  
19 Respondent. )

20 ) CRD ID NO.: 165821  
21 In the Matter of: )  
) OAH CASE NO.: 2017100010  
22 THE COMMISSIONER OF BUSINESS )  
23 OVERSIGHT, )  
)  
24 Complainant, )  
25 v. )  
)  
26 BUTTONWOOD TREE MANAGEMENT, )  
27 LLC )  
28 Respondent. )

1 This Settlement Agreement is entered into between the Commissioner of Business Oversight  
2 (Commissioner) and Buttonwood Tree Management, LLC (BTM) and is made with respect to the  
3 following facts:

4 RECITALS

5 A. BTM holds a valid and unrevoked investment adviser certificate issued by the  
6 Commissioner under section 25230 of the Corporations Code on November 26, 2014. BTM is the  
7 general partner and investment adviser of Buttonwood Tree Value Partners, LLC (BTVP). The  
8 company is located at 2801 Bristol St., Suite 100, Costa Mesa, California 92626.

9 B. The Commissioner, as head of the Department of Business Oversight (Department),  
10 is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968  
11 (CSL) (Corp. Code, § 25000 et seq.) and the regulations promulgated under title 10 of the California  
12 Code of Regulations (Cal. Code Regs., tit.10, § 260.000 et seq.).

13 C. On April 12, 2017, a Commissioner issued a Statement in Support of Order to  
14 Discontinue Violations and Intent to Make Order Final against BTM addressing the advancement of  
15 incentive and management fees charged by BTM for the first quarter of 2015 and the inaccurate  
16 incentive or performance fees charged by BTM for the period October 31, 2011 through March of  
17 2015 (2017 Order to Discontinue).

18 D. The Commissioner also issued on April 12, 2017 a Statement in Support of Order 1)  
19 Imposing Administrative Penalties Pursuant to Corporations Code Section 25252 and 2) Restitution  
20 Pursuant to Corporations Code Section 25254 for the advancement of incentive and management  
21 fees charged by BTM for the first quarter of 2015 and the inaccurate incentive or performance fees  
22 charged by BTM for the period October 31, 2011 through March of 2015 (2017 Penalties and  
23 Restitution).

24 E. Without admitting or denying the factual matters and alleged violations set forth  
25 herein, BTM wishes to address the concerns of the Department by agreeing to the terms and  
26 conditions of this Settlement Agreement.

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1 F. The Commissioner finds that entering into this Settlement Agreement is in the public  
2 interest, protects consumers, and is consistent with the purposes fairly intended by the policies and  
3 provisions of the CSL.

4 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth  
5 herein, the parties agree as follows:

6 TERMS AND CONDITIONS

7 1. Purpose. It is the intention and desire of the parties to resolve these matters without the  
8 necessity of a hearing or other litigation for the purpose of judicial economy and expediency and to  
9 avoid the expense of a hearing and possible further court proceedings. The events that form the basis  
10 of this Settlement Agreement are the events described in the 2017 Order to Discontinue and 2017  
11 Penalties and Restitution.

12 2. Finality of Settlement Agreement. BTM hereby agrees to comply with this Settlement  
13 Agreement and, further, agrees that this Settlement Agreement is final.

14 3. Finality of the Order to Discontinue Issued. BTM acknowledges that the  
15 Commissioner issued the 2017 Order to Discontinue under Corporations Code section 25249. The  
16 2017 Order to Discontinue will now be considered a final order.

17 4. Reimbursement of Buttonwood Tree Value Partners, LLC's Limited Partners. BTM  
18 agrees to reimburse the limited partners of BTVP in the amount of \$20,223.00. This sum, to be  
19 divided pro rata amongst the limited partners, represents the overcharge of incentive fees during the  
20 period from October 31, 2011 through March 2015. Such reimbursement will be made by BTM  
21 within 30 days of the execution of this Settlement Agreement. BTM acknowledges that failure to  
22 timely reimburse the Buttonwood Tree Value Partners, LLC's limited partners shall be a breach of  
23 this Settlement Agreement and shall be cause for the Commissioner to immediately revoke any  
24 licenses held by, and/or deny any pending application(s) of BTM, its successors and assigns, by  
25 whatever names they might be known. BTM hereby waives any notice and hearing rights to contest  
26 such revocations and/or denial(s) which may be afforded under the CSL, the California  
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1 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
2 in connection therewith.

3 BTM shall submit the evidence of reimbursement required under this paragraph to the  
4 attention of Marlou de Luna, Senior Counsel, Enforcement Division, 320 W. 4th Street, Suite 750,  
5 Los Angeles, California 90013.

6 5. Administrative Penalty. BTM agrees to pay to the Commissioner an administrative  
7 penalty of \$30,000.00 (the Penalty). The Penalty shall be paid by BTM within 10 days of the  
8 execution of this Settlement Agreement as defined in paragraph 18, made payable in the form of a  
9 cashier's check or Automated Clearing House deposit to the "Department of Business Oversight,"  
10 and transmitted to the attention of: Accounting – Enforcement Division, at the Department of  
11 Business Oversight located at 1515 K Street, Suite 200, Sacramento, California, 95814. Notice of all  
12 payments shall be sent to Marlou de Luna, Senior Counsel, Department of Business Oversight, 320  
13 West 4th Street, Suite 750, Los Angeles, California 90013.

14 6. Waiver of Hearing Rights. BTM agrees that this Settlement Agreement shall have the  
15 effect of withdrawing its request for an administrative hearing on the matter set forth herein. BTM  
16 acknowledges its right to an administrative hearing under the CSL in connection with the 2017 Order  
17 to Discontinue and 2017 Penalties and Restitution, and hereby waives such right to a hearing and to  
18 any reconsideration, appeal, or other rights which may be afforded it under the CSL, the  
19 Administrative Procedure Act (Gov. Code, § 11370 et seq.), the Code of Civil Procedure (Code Civ.  
20 Proc., § 1 et seq.), or any provision of law in connection with these matters.

21 7. Full and Final Settlement. The parties hereby acknowledge and agree that this  
22 Settlement Agreement is intended to constitute a full, final, and complete resolution of the matters set  
23 forth herein and that no further proceedings or actions will be brought by the Commissioner in  
24 connection with these matters under the CSL, excepting therefrom any proceeding or action if such  
25 proceeding or action is based upon facts not presently known to the Commissioner or which were  
26 knowingly concealed from the Commissioner by Overturf. No further proceedings or actions will be  
27 brought by the Commissioner in connection with these alleged violations under the CSL, subject to  
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1 the exceptions set forth in paragraph 8 below.

2 8. Exceptions to Full and Final Settlement. Nothing in paragraph 7 above or anything  
3 else in this Settlement Agreement shall be construed to prohibit or restrict or preclude the  
4 Commissioner from taking any of the following actions:

- 5 a) Bringing a proceeding to enforce compliance with the terms of this Settlement  
6 Agreement;
- 7 b) Bringing a proceeding based upon discovery of violations of the CSL occurring  
8 after the effective date of this Settlement Agreement;
- 9 c) Bringing a proceeding based upon discovery of violation of the CSL which do not  
10 form the basis for this Settlement Agreement; or
- 11 d) Bringing a proceeding based upon discovery of violations of the CSL which BTM  
12 knowingly concealed from the Commissioner.

13 9. Commissioner's Duties. The parties further acknowledge and agree that nothing in this  
14 Settlement Agreement shall limit the Commissioner's ability to assist any other agency (city, county,  
15 state, or federal) with any prosecution, administrative, civil, or criminal, brought by any such agency  
16 against BTM or any other person based upon any of the activities alleged in these matters or  
17 otherwise.

18 10. Third Party Actions. It is the intent and understanding between the parties that this  
19 Settlement Agreement does not create any private rights or remedies against BTM, create any  
20 liability for BTM, or limit defenses of BTM for any person or entity not a party to this agreement.

21 11. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
22 has received independent advice from its attorney(s) or representative(s) with respect to the  
23 advisability of executing this Settlement Agreement.

24 12. Counterparts. The parties agree that this Settlement Agreement may be executed in  
25 one or more separate counterparts, each of which shall be deemed an original when so executed. Such  
26 counterparts shall together constitute and be one and the same instrument.

27 13. Waiver, Modification, and Qualified Integration. The waiver of any provision of this  
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1 Settlement Agreement shall not operate to waive any other provision set forth herein. No waiver,  
2 amendment, or modification of this Settlement Agreement shall be valid or binding to any extent  
3 unless it is in writing and signed by all the parties affected by it.

4 14. Headings and Governing Law. The headings to the paragraphs of this Settlement  
5 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the  
6 construction or interpretation of the provisions hereof. This Settlement Agreement shall be construed  
7 and enforced in accordance with and governed by California law.

8 15. Full Integration. Each of the parties represents, warrants, and agrees that in executing  
9 this Settlement Agreement it has relied solely on the statements set forth herein and the advice of its  
10 own counsel. Each of the parties further represents, warrants, and agrees that in executing this  
11 Settlement Agreement it has placed no reliance on any statement, representation, or promise of any  
12 other party, or any other person or entity not expressly set forth herein, or upon the failure of any  
13 party or any other person or entity to make any statement, representation, or disclosure of anything  
14 whatsoever. The parties have included this clause (1) to preclude any claim that any party was in any  
15 way fraudulently induced to execute this Settlement Agreement and (2) to preclude the introduction  
16 of parol evidence to vary, interpret, supplement, or contradict the terms of this Settlement Agreement.

17 16. Presumption from Drafting. In that the parties have had the opportunity to draft,  
18 review, and edit the language of this Settlement Agreement, no presumption for or against any party  
19 arising out of drafting all or any part of this Settlement Agreement will be applied in any action  
20 relating to, connected to, or involving this Settlement Agreement. Accordingly, the parties waive the  
21 benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of  
22 uncertainty, language of a contract should be interpreted most strongly against the party that caused  
23 the uncertainty to exist.

24 17. Voluntary Agreement. BTM enters into this Settlement Agreement voluntarily and  
25 without coercion and acknowledges that no promises, threats, or assurances have been made by the  
26 Commissioner, or any officer or agent thereof, about this Settlement Agreement.

27 18. Effective Date. This Settlement Agreement shall become final and effective when  
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1 signed by all parties and delivered by the Commissioner’s agent via e-mail to BTM’s counsel at  
2 sylvia.scott@htsjlaw.com.

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

5 If to Respondent to: Buttonwood Tree Management, LLC  
6 2801 Bristol Street, Suite 100  
7 Costa Mesa, California 92626

8 If to the Commissioner to: Marlou de Luna, Senior Counsel  
9 Department of Business Oversight  
320 West 4th Street, Suite 750  
Los Angeles, California 90026

10 20. Authority to Execute. Each signatory hereto covenants that he/she possesses all  
11 necessary capacity and authority to sign and enter into this Settlement Agreement.

12 IN WITNESS WHEREOF, the parties hereto have approved and executed this Settlement  
13 Agreement on the dates set forth opposite their respective signatures.

14 Dated: 2/26/18 JAN LYNN OWEN  
15 Commissioner of Business Oversight

16 By \_\_\_\_\_  
17 MARY ANN SMITH  
18 Deputy Commissioner  
19 Enforcement Division

20 Dated: 2/23/18 BUTTONWOOD TREE MANAGEMENT, LLC

21 By \_\_\_\_\_  
22 Sean Lawson, Chief Compliance Officer  
23 On behalf of Buttonwood Tree Management, LLC

24 Approved as to Form and Content

25  
26 By \_\_\_\_\_  
27 Sylvia Scott  
28 Holmes, Taylor, Scott & Jones  
Attorneys on behalf of Buttonwood Tree Management, LLC