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

11	In the Matter of:)	OAH No. 2017100446
)	
12	THE COMMISSIONER OF BUSINESS)	CFL PROPOSED LICENSE NO.: 60DBO-
13	OVERSIGHT,)	69059
)	
14	Complainant,)	SETTLEMENT AGREEMENT
)	
15	v.)	
)	
16	CASCOFI FUND I, LLC, JAMES RUDOLPH)	
17	CASTELLANOS, AND WILLIAM J.)	
18	“BOOTS” DEL BIAGGIO, III,)	
)	
19	Respondent.)	

20 This Settlement Agreement is entered into between Respondents CASCOfi Fund I, LLC
21 (CASCOfi) and James Rudolph Castellanos (Castellanos), on the one hand, and Complainant the
22 Commissioner of Business Oversight (Commissioner), on the other hand, (hereinafter collectively
23 referred to as the Parties), and is made with respect to the following facts:

24 **RECITALS**

25 A. The Department of Business Oversight (Department), through the Commissioner, has
26 jurisdiction over the licensing and regulation of persons and entities engaged in the business of
27 lending and/or brokering pursuant to the California Financing Law (formerly known as the
28 California Finance Lenders Law) (CFL) (Fin. Code § 22000 et seq.).

SETTLEMENT AGREEMENT

1 B. CASCOfi is a limited liability company in good standing, duly formed and existing
2 pursuant to the laws of the State of California. On or about March 17, 2017, CASCOfi applied for a
3 finance lender license with the Department (Application).

4 C. At all relevant times, Castellanos, is and was the managing member and sole owner of
5 CASCOfi.

6 D. At all relevant times, William J. “Boots” Del Biaggio III (Del Biaggio III) has been
7 employed by Casco Financial, Inc.; an affiliate of CASCOfi.

8 E. On August 16 and 23, 2017, respectively, CASCOfi and Castellanos were personally
9 served by the Commissioner with the following documents: (1) Notice of Intention to Issue Order
10 Denying Finance Lender License Application and to Issues Orders Pursuant to Financial Code
11 section 22169 (Bar From Employment, Management or Control of Any Finance Lender and/or
12 Broker); (2) Statement of Issues/Accusation; (3) Statement to Respondent, (4) Government Code
13 Section 11507, 11057.6, 11507.7 relating to discovery, and (5) Notice of Defense dated August 9,
14 2017 (Accusation).

15 F. CASCOfi and Castellanos have timely filed a Notice of Defense with the
16 Commissioner regarding the Accusation and a trial has been scheduled before the Los Angeles
17 Office of Administrative Hearings for April 10-11, 2018.

18 G. It is the intention and desire of the parties to resolve this matter without the necessity
19 of a hearing and/or other proceeding.

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

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 of a hearing, and possible further court
25 proceedings.

26 2. Separate Location. CASCOfi agrees that it will conduct its business at a physical
27 location separate from any other business, including any affiliated entity, and will separate its email
28 domain (that is, the portion of the email address that follows the email sender’s name) from any

1 affiliated entity. CASCOfi may evidence the separate physical location and email domain by a letter,
2 signed under penalty of perjury by Castellanos, setting forth the new business location and email
3 address for CASCOfi and attesting that such new physical location is solely the business location of
4 CASCOfi and the email domain is separate from any affiliated entity.

5 3. Additional Conditions. CASCOfi and Castellanos agree that Del Biaggio III shall not
6 be employed in any capacity by, nor shall Del Biaggio III have any ownership interest in or engage
7 in any business activity on the premises of CASCOfi or any CASCOfi affiliate.

8 4. Waiver of Hearing Rights. CASCOfi and Castellanos acknowledge their right to an
9 administrative hearing under the CFL in connection with the Accusation and hereby waive that right
10 to a hearing, and to any reconsideration, appeal, or other rights which may be afforded pursuant to
11 the CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or
12 any other provision of law in connection with this matter.

13 5. OAH Filing. The Parties hereby agree that within 5 business days of the effective
14 date of this Settlement Agreement, the Commissioner shall file this Settlement Agreement with the
15 Office of Administrative Hearings and request that the administrative hearing for OAH Case No.
16 2017100446, scheduled for April 10-11, 2018, be taken off the court’s calendar.

17 6. Application. The Commissioner agrees that, upon receipt of an Amended
18 Application from CASCOfi disclosing a separate physical location and email address for CASCOfi
19 from its affiliated entities, the processing of CASCOfi’s Application shall move forward in an
20 expeditious manner, which shall include prompt notice of any remaining deficiency in the
21 application. The Commissioner further agrees to grant CASCOfi’s Application provided CASCOfi
22 is in compliance with this Settlement Agreement and corrects any remaining deficiencies in the
23 application, if any exist.

24 7. No Bar or Suspension of Castellanos. The Commissioner acknowledges that, as of
25 the effective date of this Settlement Agreement, Castellanos has not been barred or suspended from
26 any position of employment, management or control of any finance lender and/or broker as a result
27 of the Accusation.

28 8. Summary Revocation. CASCOfi agrees to the summary denial and/or revocation of

1 its Application and/or CFL license(s) granted to CASCOfi if the Commissioner finds, after a hearing
2 to be held before an administrative law judge in accordance with the Administrative Procedure Act,
3 Government Code section 11500 et seq., that Cascofi (i) has violated any of the terms of this
4 Settlement Agreement and/or (ii) submits to the Department, in the future, any paperwork with
5 material misrepresentations and/or omissions. CASCOfi waives its right to any reconsideration,
6 appeal or other right to review of any finding by the Commissioner made pursuant to this paragraph
7 which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the
8 California Code of Civil Procedure, or any other provision of law in connection therewith.
9 CASCOfi acknowledges that this paragraph does not limit the Commissioner’s authority to take
10 other actions against CASCOfi for alleged violation(s) of the CFL provisions set forth in paragraph
11 13 of the Accusation that occur after the effective date of this Settlement Agreement, or any other
12 provision of the CFL no matter when such alleged violation(s) occurred.

13 9. Summary Bar. Castellanos agrees to a summary bar from any position of
14 employment, management or control of any finance lender and/or broker if the Commissioner finds,
15 after a hearing to be held before an administrative law judge in accordance with the Administrative
16 Procedure Act, Government Code section 11500 et seq., that Castellanos (i) has violated any of the
17 terms of this Settlement Agreement and/or (ii) submits to the Department, in the future, any
18 paperwork with material misrepresentations and/or omissions. Castellanos waives his right to any
19 reconsideration, appeal or other right to review of any finding by the Commissioner made pursuant
20 to this paragraph which may be afforded pursuant to the CFL, the California Administrative
21 Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection
22 therewith. Castellanos acknowledges that this paragraph does not limit the Commissioner’s
23 authority to take other actions against Castellanos for alleged violation(s) of the CFL provisions set
24 forth in paragraph 13 of the Accusation that occur after the effective date of this Settlement
25 Agreement, or any other provision of the CFL no matter when such alleged violation(s) occurred.

26 10. CFL Application Withdrawal. Nothing in this Settlement Agreement shall obligate
27 CASCOfi to proceed with its Application. CASCOfi acknowledges that failure to proceed with the
28 Application within 90 days of the effective date of this Settlement Agreement shall result in the

1 abandonment of the Application.

2 11. Information Willfully Withheld. This Settlement Agreement may be revoked and the
3 Commissioner may pursue any and all remedies available under law against CASCOfi and/or
4 Castellanos if the Commissioner later discovers that CASCOfi and/or Castellanos knowingly or
5 willfully withheld information used for and relied upon in this Settlement Agreement.

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

8 13. Third Party Actions. This Settlement Agreement does not create any private rights or
9 remedies against CASCOfi and/or Castellanos, create any liability for CASCOfi and/or Castellanos
10 or limit defenses of CASCOfi and/or Castellanos for any person or entity not a party to this
11 Settlement Agreement.

12 14. Full and Final Settlement. The parties hereby acknowledge and agree that this
13 Settlement Agreement is intended to constitute a full, final, and complete resolution of the
14 Accusation, and that no further proceedings or actions will be brought by the Commissioner in
15 connection with this matter under the CFL, or any other provision of law, excepting therefrom any
16 proceeding to enforce compliance with the terms of this Settlement Agreement.

17 15. Commissioner's Duties: The parties acknowledge and agree that nothing contained
18 in this Settlement Agreement shall operate to limit the Commissioner's ability to assist any other
19 agency, whether city, county, state or federal, with any prosecution, whether administrative, civil or
20 criminal, brought by any such agency against CASCOfi, Castellanos or any other person based upon
21 any of the activities alleged in this matter or otherwise.

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

25 17. Reliance. Each of the parties represents, warrants, and agrees that in executing this
26 Settlement Agreement it has relied solely on the statements set forth herein and the advice of its own
27 counsel and/or representative. Each of the parties further represents, warrants, and agrees that in
28 executing this Settlement Agreement it has placed no reliance on any statement, representation, or

1 promise of any other party, or any other person or entity not expressly set forth herein, or upon the
2 failure of any party or any other person or entity to make any statement, representation or disclosure
3 of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any
4 party was in any way fraudulently induced to execute this Settlement Agreement, and (2) to preclude
5 the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
6 Settlement Agreement.

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

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

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

24 21. Headings and Governing Law. The headings to the paragraphs of this Settlement
25 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the
26 construction or interpretation of the provisions hereof. This Settlement Agreement shall be
27 construed and enforced in accordance with and governed by California law.
28

1 22. Effective Date. This Settlement Agreement shall become effective when signed by
2 all parties and delivered via email to judy.hartley@dbo.ca.gov and diorlano@manatt.com.

3 23. Notice. Any notice required under this Settlement Agreement shall be addressed as
4 follows:

5 To CASCOFi & Castellanos: Diana I. Iorlano, Esq.
6 Manatt, Phelps & Phillips, LLP
7 11355 West Olympic Boulevard
8 Los Angeles, California 90064
diorlano@manatt.com

9 To the Commissioner: Judy L. Hartley, Esq.
10 Senior Counsel
11 Department of Business Oversight
12 320 W. 4th Street, Suite 750
13 Los Angeles, California 90013-2344
judy.hartley@dbo.ca.gov

14 24. Counterparts. The Parties agree that this Settlement Agreement may be executed in
15 one or more separate counterparts, each of which when so executed, shall be deemed an original.
16 Such counterparts shall together constitute and be one and the same instrument. A facsimile or
17 scanned signature shall be deemed the same as an original.

18 25. Public Record. CASCOFi and Castellanos acknowledge that this Settlement
19 Agreement is a public record.

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

22 Dated: 12/4/17 JAN LYNN OWEN
Commissioner of Business Oversight

23 By _____
24 MARY ANN SMITH
Deputy Commissioner

25
26 Dated: 12/1/17 CASCOFI FUND I, LLC

27 By _____
28 JAMES RUDOLPH CASTELLANOS
President

1 Dated: 12/1/17

JAMES RUDOLPH CASTELLANOS

2 By _____
3 JAMES RUDOLPH CASTELLANOS

4
5 APPROVED AS TO FORM:

6 MANATT, PHELPS & PHILLIPS, LLP

7 By _____
8 DIANA I. IORLANO, ESQ. attorneys for
9 CASCOFI FUND I, LLC AND
10 JAMES RUDOLPH CASTELLANOS

11 Commissioner of Business Oversight

12 By _____
13 JUDY L. HARTLEY, ESQ.
14 Senior Counsel

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