

Formal Agreement for Settlement of Case BC 366 026

1. Parties to Agreement. The parties to this Agreement are Plaintiff State of California, by and through the California Department of Corporations (“State” or “Plaintiff”) and Defendant James A. West (“Mr. West”).
2. Purpose of Agreement. This Agreement is binding and enforceable, and is a full and complete settlement of the lawsuit captioned *People of the State of California v. California Health Scan, LLC, et al.*, Case No. BC366026 pending in the Los Angeles Superior Court, Los Angeles County (“the Action”).
3. No Admission of Liability. It is understood and agreed that this is a compromise settlement of disputed claims and the furnishing of the consideration for this Agreement shall not be deemed or construed as an admission of liability, responsibility or wrongdoing by Mr. West at any time for any purpose.
4. Settlement Consideration. In consideration of a dismissal with prejudice of the entire action against Mr. West, except to the extent provided in Paragraph 7 herein, which dismissal shall be requested in writing by the State within three business days after execution of this Agreement, Mr. West agrees that he will pay \$350,000 to certain investors in California Health Scan, LLC (“CHS”) in sixteen equal quarterly installments. Mr. West will mail the payments to the investors identified in Schedule A to this Agreement. The State shall, within two months after execution of this Agreement, provide Mr. West with a complete schedule of dollar amounts to be paid each investor named in Schedule A, as well as the mailing addresses of the investors to which payments must be mailed. Mr. West agrees to provide proof of the above-referenced payments to the State, including cancelled checks. To the extent any checks are returned undelivered or not accepted by any of the investors, Mr. West will provide proof of such checks to Plaintiff, and he will promptly pay those amounts instead to the State of California. Mr. West further agrees that if any post-D&R investor who is not named on Schedule A makes a claim for repayment of funds invested in CHS, upon presentation to the Court of satisfactory proof of any such investment on noticed motion filed by Plaintiff, Mr. West will pay these investors the same amount they would have received had they been originally identified in Schedule A. Any such payments shall be in addition to the dollar amount specified above. Any quarterly payment made earlier than due will be discounted by \$3.60 day. Both parties can file a motion before March 9, 2008, requesting that the Court amend or correct Schedule A so that Schedule A will list all post-D&R investors in CHS and the dates and dollar amounts of their respective investments.
5. Dismissal of Lawsuit with Prejudice. Counsel for the State shall file a request for dismissal with prejudice (except for the injunction) in the lawsuit captioned *People of the State of California v. California Health Scan, LLC, et al.*, Case No. BC366026 pending in the Los Angeles Superior Court, Los Angeles County within three court days after the execution of this Agreement by both parties. The parties will both request the Court to

sign an Order of Dismissal reading as follows: “The entire action is dismissed with prejudice, as against defendant James A. West only, except to the extent provided in the Injunction, pursuant to Code of Civil Procedure sections 581(b)(1) and 664.6. Each party will bear its or his own costs and attorney fees. The parties’ request that the Court retain jurisdiction to enforce their written settlement agreement is granted. This retained jurisdiction includes jurisdiction to vacate the order of dismissal if necessary in order to enforce the parties’ agreement, and jurisdiction and authority to resolve all disputes over the interpretation, application, and enforcement of the parties’ agreement.”

6. Default. In the event Mr. West fails to make a payment, Plaintiff shall give him written notice. If he fails to make the payment within ten days after such notice, Plaintiff shall be entitled to obtain, by ex parte application upon one week’s notice, an order vacating the dismissal and entering a stipulated judgment in favor of Plaintiff, against Mr. West, in the amount of \$2,549,113, minus any amounts already paid by Mr. West, with each party to bear its or his own costs and attorney fees.

7. Injunction. The Court will immediately enter a permanent injunction enjoining Mr. West from violating, directly or indirectly, personally or through his agents, employees, or representatives, (i) California Corporations Code section 25110 by offering or selling unqualified non-exempt investment contracts or any other securities; (ii) the Desist and Refrain Order issued by the Commissioner of Corporations on December 23, 2002; and (iii) California Corporations Code section 25401 by offering or selling securities by means of any written or oral communication which includes an untrue statement of material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

8. Third Party Beneficiary. Nothing in this Agreement shall be construed to confer any right or benefit upon any person not a party to this Agreement, including any investor in CHS.

9. Governing Law. This Agreement shall be governed by and construed and enforced pursuant to the laws of the State of California.

10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. Facsimile signatures and e-mailed scanned signatures shall be deemed to be original signatures.

11. Binding Effect; Entire Agreement; Modification. This Agreement shall be binding upon the Parties and their respective heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of the Parties and their respective heirs, administrators, representatives, executors, successors, and assigns. This Agreement constitutes the entire understanding among the Parties and may not be modified without the express written consent of the Parties supported by adequate consideration. This Agreement supersedes all other written and/or oral agreements,

understandings and negotiations regarding the subject matter hereof. No representation of any kind or character, other than those incorporated in this Agreement, has been made to either side by the other or their agents, representatives or attorneys to induce the execution of this Agreement.

12. Authority. Edward Kelly Shinnock hereby represents to Mr. West that he has express authority to bind Plaintiff to this Agreement. Mr. Shinnock hereby solemnly, as an attorney and officer of the Court, makes the same representation to the Court.

13. Voluntary Agreement. By signing this Agreement, the Parties each acknowledge and agree that they each enter into this Agreement knowingly and voluntarily, and have consulted with legal counsel of their choosing prior to signing it.

14. Severability. Should any provision of this Agreement be declared or determined to be illegal, invalid, void, or otherwise unenforceable, the Court shall determine whether such invalidity affects the enforceability of the remaining terms hereof.

15. Notice. Any notice to Plaintiffs required or permitted under this Agreement may be given by e-mail, hand delivery, or by mailing the notice, with first-class postage prepaid, to Plaintiff c/o Edward Kelly Shinnick, California Department of Corporations, 71 Stevenson Street, Suite 2100, San Francisco, California 94105, kshinnic@corp.ca.gov. Any notice to Defendant James A. West, may be given by e-mail, hand delivery, or by mailing the notice, with first-class postage prepaid, c/o Deborah A. Klar, Liner Yankelevitz Sunshine & Regenstreif LLP, 1100 Glendon Ave., Suite 1400, Los Angeles, CA 90024, dklar@linerlaw.com.

16. Dispute Resolution. The parties hereby request the Court to retain jurisdiction of the parties and of this case to enforce the provisions of this Agreement.

The Parties hereby agree to this Agreement:

_____ 1/9/08
The State of California date
by and through the
Department of Corporations,
By Edward Kelly Shinnick, Its Enforcement Attorney

_____ 1-09-08
James A. West date