

## **SETTLEMENT AGREEMENT**

This SETTLEMENT AGREEMENT (“Agreement”) is entered into as of June 30, 2008 by and between the California Corporations Commissioner (“Commissioner”), on the one hand, and Virtual E, Inc. dba Checkmate (“Checkmate”), (hereinafter collectively “the Parties”).

### **RECITALS**

This Agreement is made with reference to the following facts:

- A. Checkmate is a corporation in good standing and authorized to conduct business in this State. Checkmate has its principal place of business located at 5800 Armada Drive, #240, Carlsbad, CA 92008.
- B. Susan Bassford is, and was at the time of the issuance of the Order described in paragraph D below, the president of Checkmate. Bassford is authorized to enter into this Agreement on behalf of Checkmate.
- C. Checkmate holds license #s100-0910, 100-0911, 100-0912, 100-0913, 100-0914, 100-1890, 100-1891, 100-1892 and 100-1893 from the Commissioner under the California Deferred Deposit Transaction Law (“CDDTL”) pursuant to California Financial Code sections 23005, 23008 and 23009.
- D. On May 22, 2008, the Commissioner issued Citation(s), a Desist and Refrain Order an Order Voiding Deferred Deposit Transactions (the “Order”) Checkmate for violation of California Financial Code section 23038 (a), a copy of which is attached and incorporated herein as Exhibit “1.” Checkmate was served with the order on or about May 24, 2008.
- E. It is the intention and desire of the parties to resolve this matter without the necessity of a hearing and/or other litigation.

NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set forth herein, the parties agree as follows:

### **TERMS AND CONDITIONS**

1. **Purpose.** The purpose of this Agreement is to settle and resolve the matters between the parties hereto, for judicial economy and expediency, and to avoid the expense of a hearing, and possible further court proceedings.
2. **Waiver of Hearing Rights.** Checkmate acknowledges the right of Checkmate to a hearing under the CDDTL in connection with the Order and hereby waives that right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CDDTL, the California Administrative Procedure Act, the

California Code of Civil Procedure, or any other provision of law, and by waiving such rights, consent to the Order becoming final.

3. Advice of Counsel. Checkmate further acknowledges that it was advised to consult with counsel prior to entering into this Settlement Agreement and has elected to consult with counsel.

4. Admissions. Checkmate admits the findings contained in the Order with the exception of any finding that the violations were “willful” as described in Financial Code section 23060. After further consideration, both parties acknowledge that the violations were errors or mistakes and not willful violations of the California Deferred Deposit Transaction Law. Notwithstanding the foregoing provision, Checkmate agrees to void the two loans totaling \$600 described in the Order in accordance with the provisions of Financial Code section 23060. The admissions of Checkmate are solely for the limited purposes of this proceeding and any future proceeding that may be initiated by or brought before the Commissioner against Checkmate. It is the intent and understanding between the parties that this Agreement, and particularly Checkmate’s admissions herein, shall not be binding or admissible against Checkmate in any action(s) brought against Checkmate by third parties.

5. Citations. Checkmate hereby agrees to pay to the Commissioner citations totaling TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) (the “Citation”) upon execution of this agreement. Checkmate shall make the check for the payment payable to the California Department of Corporations and mail the check to attention and address of the Department of Corporations person listed in paragraph 20. Notices.

6. Future Actions by the Commissioner. The Commissioner reserves the right to bring any future action(s) against Checkmate or any of the officers, directors, shareholders, or employees of Checkmate for any and all unknown or future violations of the CDDTL. This Agreement shall not serve to exculpate Checkmate or any of the shareholders, officers, directors or employees of Checkmate from liability for any and all unknown or future violations of the CDDTL.

7. Effective Date. This Agreement shall not become effective until signed, and delivered by all parties.

8. Settlement Agreement Coverage. The parties hereby acknowledge and agree that this Agreement is intended to constitute a full, final and complete resolution of this matter, including but not limited to any and all administrative, civil or criminal remedies that the Commissioner may take based upon the violations of law cited in the citations. The parties further acknowledge and agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability, in a manner consistent with applicable law, to respond to requests for information, or otherwise cooperate with or assist any other agency, (county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such agency against Checkmate based upon any of the activities alleged in this matter or otherwise.

10. Independent Legal Advice. Each of the Parties acknowledges and agrees that it has received or been advised to seek independent legal advice from its attorneys with respect to the advisability of executing this Agreement.

11. No Other Representation. Each of the Parties acknowledges and agrees that in executing this Agreement it has relied solely on the statements set forth herein and the advice of its own counsel. Each of the Parties further acknowledges and agrees that in executing this Agreement it has placed no reliance on any statement, representation, or promise of any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

12. Modifications and Qualified Integration. No amendment, change or modification of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the parties affected by it.

13. Full Integration. This Agreement, including the attached Order, is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supercedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the Parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

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

15. Counterparts. This Agreement may be executed in any number of counter-parts by the Parties, and when each Party has signed and delivered at least one such counterpart to the other Party, each counterpart shall be deemed an original and taken together shall constitute one and the same Agreement.

16. Headings and Governing Law. The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

17. Authority For Settlement. Each Party warrants and represents that such Party is fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without limiting the generality of the foregoing, each Party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

18. Public Record. Checkmate hereby acknowledges that this Agreement will be a matter of public record.

19. Voluntary Agreement. The Parties each represent and acknowledge that he, she or it is executing this Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

20. Notices. Notice shall be provided to each party at the following addresses:

If to Checkmate: 5800 Armada Drive, #240  
Carlsbad, CA 92008  
Attn: Susan Bassford

If to the Commissioner to: Steven C. Thompson  
Special Administrator  
Financial Services Division  
Department of Corporations  
320 W. 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344

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

Dated: \_\_\_\_\_

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_

STEVEN C. THOMPSON  
Special Administrator

Dated: \_\_\_\_\_

VIRTUAL E, INC.  
dba CHECKMATE

By \_\_\_\_\_

SUSAN BASSFORD  
President

Dated: \_\_\_\_\_

Approved as to form by Respondents'  
Counsel

By: \_\_\_\_\_

MICHAEL A. RASKASKY  
Attorney at Law  
Harlowe & Falk, LLP



