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Attorneys for Complainant
Commissioner of the Department of Business Oversight

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	OAH NO.: 2018041272
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	SETTLEMENT AGREEMENT
)	
Complainant,)	
v.)	
MATTHEW JOHN DAVIS,)	Trial Date: September 25-27, 2018
)	Time: 9:00 A.M.
Respondent.)	Location: 320 West 4th Street, Suite 630
)	Los Angeles, CA 90013
)	
)	

This Settlement Agreement (Settlement Agreement) is entered into between Complainant the Commissioner of Business Oversight (Commissioner) and Respondent Matthew John Davis (Davis) (collectively, the Parties).

I.**RECITALS**

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3 A. Davis (CRD No. 4412731) is currently registered as an investment adviser
4 representative with Coppell Advisory Solution, LLC dba Fusion Capital Management (Fusion
5 Capital), a Securities and Exchange Commission registered investment adviser firm (CRD No.
6 156549). Davis has been employed at Fusion Capital since August 7, 2013.

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

11 C. In 2005, Davis became a member of the Financial Industry Regulatory Authority
12 (FINRA). Davis was employed with OneAmerica Securities, Inc. from April 1, 2010 through July
13 26, 2013 as a General Securities Representative and Investment Company Products/Variable Contract
14 Representative and a California broker-dealer agent representative.

15 D. On June 18, 2014, FINRA and Davis executed a Letter of Acceptance, Waiver, and
16 Consent (AWC) under which FINRA permanently barred Davis from associating with any FINRA
17 member in any capacity based on his failure to appear and provide on-the-record testimony before
18 FINRA.

19 E. On July 6, 2016, a Uniform Application for Securities Industry Registration or
20 Transfer (Form U-4) was submitted by Fusion Capital Management on behalf of Davis to the
21 Commissioner to register him as an investment adviser representative in California.

22 F. On or about January 24, 2018, the Commissioner issued a Notice Of Intention To Bar
23 Matthew John Davis From Any Position Of Employment, Management Or Control Of Any
24 Investment Adviser, Broker-Dealer Or Commodity Adviser pursuant to Corporations Code section
25 25232.1, and a Statement Of Issues in connection therewith (Administrative Action), asserting that
26 with regard to the FINRA bar: (1) Davis willfully made or caused to be made statements that were
27 false and misleading as to material facts, and willfully omitted to state material facts which were
28 required to be stated to the Commissioner in his Form U-4, under the meaning of Corporations Code

1 section 25232(a); and (2) Davis is subject to an order of a national securities association or national
2 securities exchange (registered under the Securities Exchange Act of 1934) suspending or expelling
3 him or her from membership in that association or exchange or from association with any member
4 thereof, and necessary for the protection of any investor, as specified in Corporations Code sections
5 25232(d)(2) and (d)(3).

6 G. The Commissioner personally served the Administrative Action on Davis on January
7 31, 2018. Davis filed a Notice Of Defense acknowledging receipt of the Administrative Action and
8 requested a non-priority hearing in the above-referenced matter. The matter was set to be heard from
9 September 25-27, 2018, before the Office of Administrative Hearings at 320 West Fourth Street,
10 Suite 630, Los Angeles, California 90013.

11 H. It is the intention and desire of the Parties to resolve this matter without the necessity
12 of a hearing or other litigation.

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

15 **II.**
16 **TERMS AND CONDITIONS**

17 1. Purpose. This Settlement Agreement is entered into for the purposes of judicial
18 economy and expediency, to avoid the expense of a hearing and possible further court proceedings.

19 2. Suspension Order. Without admitting or denying the allegations in the Administrative
20 Action, Davis agrees to the issuance by the Commissioner of an order suspending Davis from any
21 position of employment, management or control of any investment adviser, broker-dealer or
22 commodity adviser for a period of twenty-four months (Suspension Order) effective October 15,
23 2018. The Suspension Order shall become final and effective on October 15, 2018. A copy of the
24 Suspension Order is attached and incorporated as **Exhibit A**.

25 3. Future Registration and Heightened Supervision. Upon expiration of the Suspension
26 Order, should Davis seek any position of employment of any investment adviser, Davis agrees to
27 satisfy the qualification requirements of Title 10 of the California Code of Regulations, section
28 260.236, and further agrees that any investment adviser representative (IAR) registration or other

1 application must be submitted by or on behalf of Davis to the Commissioner. Davis agrees and
2 understands that the Commissioner's approval, if any, of any such IAR registration or application
3 may be granted on a restricted basis, and on the condition that Davis and Davis's future investment
4 adviser firm agrees to a period of heightened supervision (Heightened Supervision) of at least twenty-
5 four months. During the Heightened Supervision period, Davis may serve only as a non-supervisory
6 employee, and not as an owner, manager or control person of the investment adviser, broker-dealer or
7 commodity adviser.

8 4. Monitoring Period. For the duration of the Suspension Order identified in paragraph 2
9 and Heightened Supervision identified in paragraph 4 (Monitoring Period), if the Department finds
10 that Davis has violated or is violating any provision of the CSL, Settlement Agreement, Suspension
11 Order, or terms of Heightened Supervision, the Commissioner will provide written notice to Davis of
12 the alleged violation, and provide Davis thirty days to meet and confer with the Commissioner and
13 cure the alleged violation. Davis agrees that if the Commissioner determines, in her discretion, that
14 Davis has failed to cure the alleged violation, the Commissioner may summarily bar Davis from any
15 position of employment, management or control of any investment adviser, broker-dealer or
16 commodity adviser. Davis waives all hearing rights to contest the summary bar initiated pursuant to
17 this provision, which may be afforded under the CSL, the California Administrative Procedure Act,
18 the California Code of Civil Procedure, or any other provision of law in connection with these
19 matters.

20 5. Waiver of Hearing Rights. Davis acknowledges his right to an administrative hearing
21 under the CSL in connection with the Administrative Action and hereby waives that right to a
22 hearing, and to any reconsideration, appeal, or other rights which may be afforded pursuant to the
23 CSL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
24 other provision of law in connection with these matters.

25 6. Full and Final Settlement. The Parties hereby acknowledge and agree that this
26 Settlement Agreement is intended to constitute a full, final and complete resolution of the
27 Administrative Action. No further proceedings or actions will be brought by the Commissioner upon
28 those contentions, excepting therefrom any proceeding to enforce compliance with the terms of this

1 Settlement Agreement, or action if such proceeding or action is based upon discovery of new and
2 further violations of the CSL which do not form the basis for this Settlement Agreement or which
3 were knowingly or willfully concealed from the Commissioner by Davis. Further, this Settlement
4 Agreement may be revoked, and the Commissioner may pursue any and all remedies available under
5 law against Davis if the Commissioner later discovers that Davis knowingly or willfully withheld
6 information used and relied upon in this Settlement Agreement.

7 7. Commissioner's Duties. The Parties acknowledge and agree that nothing contained in
8 this Consent Order shall operate to limit the Commissioner's ability to assist any other agency, (city,
9 county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such
10 agency against Davis or any other person based upon any of the activities alleged in these matters or
11 otherwise.

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

15 9. Integration. This Settlement Agreement is the final written expression and the
16 complete and exclusive statement of all the agreements, conditions, promises, representations, and
17 covenants between the parties with respect to the subject matter and supersedes all prior discussions
18 between the parties, their representatives, and any other person. Each of the Parties represents,
19 warrants, and agrees that in executing this Settlement Agreement it has placed no reliance on any
20 statement, representation, or promise of any other party, or any other person or entity not expressly
21 set forth herein, or upon the failure of any party or any other person or entity to make any statement,
22 representation or disclosure of anything whatsoever. The Parties have included this clause to
23 preclude any claim that any party was in any way fraudulently induced to execute this Settlement
24 Agreement and to preclude the introduction of parol evidence to vary, interpret, supplement, or
25 contradict the terms of this Settlement Agreement.

26 10. No Presumption from Drafting. In that the Parties have had the opportunity to draft,
27 review and edit the language of this Settlement Agreement, no presumption for or against any party
28 arising out of drafting all or any part of this Settlement Agreement will be applied in any action

1 relating to, connected, to, or involving this Settlement Agreement. Accordingly, the Parties waive the
2 benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of
3 uncertainty, language of a contract should be interpreted most strongly against the party who caused
4 the uncertainty to exist.

5 11. Headings. The headings to the paragraphs of this Settlement Agreement are for
6 convenience only and do not affect its meaning.

7 12. Voluntary Agreement. Davis enters into this Settlement Agreement voluntarily and
8 without coercion and acknowledges that no promises, threats or assurances have been made by the
9 Commissioner or any officer, or agent thereof, about this Settlement Agreement. The Parties each
10 represent and acknowledge that he, she or it is executing this Agreement completely voluntarily
11 and without any duress or undue influence of any kind from any source.

12 13. Settlement Authority. Each of the Parties represents, warrants, and agrees that it has
13 received independent advice from its attorney(s) and/or representatives with respect to the
14 advisability of executing this Settlement Agreement.

15 14. Waiver. The waiver of any provision of this Settlement Agreement shall not operate to
16 waive any other provision set forth herein, and any waiver, amendment and/or change to the terms of
17 this Settlement Agreement must be in writing and signed by the parties.

18 15. Counterparts. This Settlement Agreement may be executed in one or more
19 counterparts, each of which shall be an original but all of which, together, shall be deemed to
20 constitute a single document.

21 16. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it
22 has had an opportunity to seek independent advice from its attorney(s) or representatives with respect
23 to the advisability of executing this Settlement Agreement.

24 17. Signatures. This Settlement Agreement may be executed by facsimile or scanned
25 signature, and any such facsimile or scanned signature by any party hereto shall be deemed to be an
26 original signature and shall be binding on such party to the same extent as if such facsimile or
27 scanned signature were an original signature.

28 18. Governing Law. This Settlement Agreement shall be construed and enforced in

1 accordance with and governed by California law.

2 19. Effective Date. This Settlement Agreement shall not become effective until signed by
3 all parties and delivered by the Commissioner’s counsel by email to counsel for Davis, Rebecca
4 MacLaren, Esq. at rmaclaren@reiflawgroup.com.

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6 Dated: 9/21/18 JAN LYNN OWEN
Commissioner of Business Oversight

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8 By: _____
MARY ANN SMITH
9 Deputy Commissioner
Enforcement Division

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12 Dated: 9/21/18 MATTHEW JOHN DAVIS

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14 By: _____
MATTHEW JOHN DAVIS
15 Respondent

16 **APPROVED AS TO FORM:**

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18 _____
REBECCA MACLAREN, ESQ.
19 Reif Law Group
Counsel for Respondent

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21 _____
JOHNNY VUONG
22 Senior Counsel, Enforcement Division
23 Counsel for Complainant

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