

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

6 Attorneys for Complainant

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

11 In the Matter of the Accusation of THE) File No.: 963-2571
COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) SETTLEMENT AGREEMENT
13)
Complainant,)
14)
vs.)
15)
16 EFFICIENCY ESCROW, INC. and ANELA)
MIYASHIRO-LINDO,)
17)
Respondents.)
18)
19)

20 This Settlement Agreement is entered into between Respondents Efficiency Escrow, Inc.
21 (“Efficiency”) and Anela Miyashiro-Lindo (“Lindo”) on the one hand, and Complainant the
22 Commissioner of Business Oversight (“Commissioner”) on the other hand, and is made with respect
23 to the following facts:

24 **RECITALS**

- 25 A. Efficiency is a corporation in good standing, duly formed and existing pursuant to the
26 laws of the State of California, and authorized to conduct business in the State of California.
27 B. Efficiency is an escrow agent licensed by the Commissioner pursuant to the Escrow
28 Law of the State of California (California Financial Code Section 17000 et seq.). Efficiency has its

1 principal place of business located at 2131 Palomar Airport Road, Suite 325, Carlsbad, California
2 92011.

3 C. Lindo is, and was at all times relevant herein, the president and 50% shareholder of
4 Efficiency.

5 D. On October 11, 2013, Efficiency and Lindo were personally served by the
6 Commissioner with a Notice of Intention to Issue Order Suspending Escrow Agent’s License and to
7 Issue Order Pursuant to California Financial Code Section 17423 (Suspend from Employment,
8 Management or Control of Any Escrow Agent), Accusation and accompanying documents dated
9 October 9, 2013 (“Accusation”). Efficiency and Lindo have filed Notices of Defense with the
10 Commissioner on the above-referenced matter.

11 It is the intention and desire of the parties to resolve these matters without the necessity of a
12 hearing and/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 **TERMS AND CONDITIONS**

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

18 2. Efficiency and Lindo hereby admit the allegations contained in the Accusation. The
19 admissions of Efficiency and Lindo herein are solely for the limited purposes of this proceeding and
20 any future proceedings that may be initiated by or brought before the Commissioner against
21 Efficiency and/or Lindo. It is the intent and understanding between the parties that this Settlement
22 Agreement, and particularly the admissions of Efficiency and Lindo herein, shall not be binding or
23 admissible against Efficiency and/or Lindo in any action(s) brought against Efficiency and/or Lindo
24 by any third party.

25 3. Efficiency hereby agrees to the immediate issuance by the Commissioner of an Order
26 suspending Efficiency’s escrow agent’s license for a period of one week. The suspension shall
27 commence on Monday, December 23, 2013 and continue through close of business on Monday,
28 December 30, 2013. In connection with the suspension, Efficiency shall file with the Commissioner

1 at close of business the business day immediately preceding the date on which the suspension is to
2 commence a list of all open escrows with escrow numbers and escrow party names along with a
3 copy of the signed escrow instructions generated by Efficiency and/or signed deposit receipt(s), if
4 any, or a copy of the Efficiency generated escrow instructions and the transmittal letters to the
5 parties for the last opened escrow. For purposes of this Settlement Agreement, open escrow shall
6 mean an escrow wherein the parties to such escrow have already entered into a binding agreement
7 and monies and/or escrow instructions prepared by Efficiency have been submitted to Efficiency
8 regarding the transaction or escrow instructions prepared by Efficiency regarding the transaction
9 have been transmitted to the parties. A copy of the suspension order is attached and incorporated as
10 Exhibit A.

11 4. Efficiency further agrees to the immediate issuance by the Commissioner of an Order
12 to Discontinue Violations Pursuant to California Financial Code Section 17602. A copy of the Order
13 to Discontinue Violations is attached and incorporated as Exhibit B.

14 5. Efficiency acknowledges its right to an administrative hearing under California
15 Financial Code sections 17602, 17604 and 17608 in connection with the Order to Discontinue
16 Violations and suspension, and hereby waives its right to a hearing, and to any reconsideration,
17 appeal, or other rights which may be afforded pursuant to the Escrow Law, the California
18 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law
19 in connection with this matter.

20 6. Lindo hereby agrees to the issuance by the Commissioner of an order suspending
21 Lindo from any position of employment of an escrow agent for a period of two (2) days. The
22 suspension shall be served on December 16 and 17, 2013. A copy of the suspension order is
23 attached and incorporated herein as Exhibit C.

24 7. Lindo acknowledges her right to an administrative hearing under Financial Code
25 section 17423 in connection with the suspension and hereby waives that right to a hearing, and to
26 any reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the
27 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
28 provision of law in connection with this matter.

1 8. The parties hereby agree that Lindo, once she has completed the suspension set forth
2 in paragraph 6 above, shall not be prohibited from employment as an escrow manager by reason of
3 the 2-day suspension or the acts sets forth in the Accusation whether such employment is with
4 Efficiency or another licensed escrow company so long as Lindo has otherwise complied with the
5 requirements of the Escrow Law.

6 9. Efficiency shall pay to the Commissioner the sum of \$4,294.00 as and for her legal,
7 investigative and clerical costs in this matter. Such costs shall be paid upon execution of this
8 Settlement Agreement.

9 10. The parties hereby acknowledge and agree that this Settlement Agreement is intended
10 to constitute a full, final and complete resolution of the Accusation. The parties further acknowledge
11 and agree that nothing contained in this Settlement Agreement shall operate to limit the
12 Commissioner's ability to assist any other agency, (city, county, state or federal) with any
13 prosecution, administrative, civil or criminal, brought by any such agency against Efficiency and/or
14 Lindo based upon any of the activities alleged in these matters or otherwise.

15 11. Each of the parties represents, warrants, and agrees that it has received independent
16 advice from its attorney(s) and/or representative(s) with respect to the advisability of executing this
17 Settlement Agreement.

18 12. Each of the parties represents, warrants, and agrees that in executing this Settlement
19 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
20 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
21 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
22 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
23 party or any other person or entity to make any statement, representation or disclosure of anything
24 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
25 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
26 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
27 Settlement Agreement.

28

1 13. This Settlement Agreement is the final written expression and the complete and
2 exclusive statement of all the agreements, conditions, promises, representations, and covenants
3 between the Parties with respect to the subject matter hereof, and supersedes all prior or
4 contemporaneous agreements, negotiations, representations, understandings, and discussions
5 between and among the Parties, their respective representatives, and any other person or entity, with
6 respect to the subject matter covered hereby.

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

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

17 16. Any notice required under this Settlement Agreement shall be addressed as follows:

18 To Respondents: Rose Pothier, Esq.
19 Pothier & Associates
20 2122 North Broadway
21 Santa Ana, California 92706

22 To the Commissioner: Judy L. Hartley, Esq.
23 Senior Corporations Counsel
24 Department of Business Oversight
25 320 W. 4th Street, Suite 750
26 Los Angeles, California 90013-2344

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17. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement.

Dated: 12-3-13

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner

Dated: 12-2-13

EFFICIENCY ESCROW, INC.

By _____
ANELA MIYASHIRO-LINDO, President

Dated: 12-2-13

By _____
ANELA MIYASHIRO-LINDO, an individual

APPROVED AS TO FORM:

POTHIER & ASSOCIATES

By _____
ROSE POTHIER, ESQ. Attorney for EFFICIENCY
ESCROW, INC. and ANELA MIYASHIRO-LINDO

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
JUDY L. HARTLEY
Senior Corporations Counsel