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Deputy Commissioner  
2 MIRANDA LEKANDER  
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4 Department of Business Oversight  
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5 Sacramento, California 95814  
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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

9 OF THE STATE OF CALIFORNIA

11  
12 In the Matter of: ) NMLS ID No. 1400462  
) OAH No. 2016120338  
13 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, )  
14 ) SETTLEMENT AGREEMENT  
15 Complainant, )  
)  
16 v. )  
) Hearing Date: October 11, 2017  
17 ZACHARY ANDREW MILLER, ) Time: 9:00 a.m.  
) Location: Office of Administrative Hearings  
18 Respondent. ) 320 W. 4th Street, Suite 630  
) Los Angeles, California, 90013  
19 )  
20 )  
21 )

22 This Settlement Agreement (Agreement) is entered into between Zachary Andrew Miller  
23 (Miller) and the Commissioner of Business Oversight (Commissioner) and is made with respect to  
24 the following facts:

25 **RECITALS**

26 A. On January 4, 2016, Miller filed an application for a mortgage loan originator  
27 (MLO) license with the Commissioner pursuant to the California Residential Mortgage Lending  
28 Act (CRMLA) (Fin. Code, § 50000 et seq.) (Application). The Application was submitted to the

1 Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing System and  
2 Registry (NMLS).

3 B. In reviewing the Application, the Commissioner could not make, at a minimum, the  
4 finding that Miller had demonstrated such financial responsibility, character, and general fitness as  
5 to command the confidence of the community and warrant a determination that he will operate  
6 honestly, fairly, and efficiently as a MLO under the meaning of Financial Code section 50141.

7 C. On October 10, 2016, the Commissioner issued to Miller a Statement of Issues,  
8 Notice of Intention to Deny License Application (Notice) and accompanying documents  
9 (collectively, Administrative Action). The Administrative Action was received by Miller’s counsel  
10 on October 26, 2016.

11 D. Miller submitted a timely written hearing request and statutory time waiver to the  
12 Commissioner on October 30, 2016.

13 E. The Commissioner finds that this Agreement is appropriate, in the public interest,  
14 and consistent with the purposes fairly intended by the policy and provisions of this law.

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

17 **TERMS AND CONDITIONS**

18 1. Purpose. This Agreement is entered into for the purpose of judicial economy and  
19 expediency, and to avoid the expense of a hearing and possible further court proceeding.

20 2. Waiver of Hearing Rights. Miller agrees to withdraw his request for an  
21 administrative hearing made on October 30, 2016. Miller understands and acknowledges his right  
22 to an administrative hearing under the CRMLA in connection with the Application. Miller hereby  
23 waives his right to a hearing, and to any reconsideration, appeal, or other rights which may be  
24 afforded pursuant to the CRMLA, the Administrative Procedure Act, the Code of Civil Procedure,  
25 or any other provision of law in connection with these matters.

26 3. Licensure. The Commissioner hereby grants Miller’s Application and agrees to  
27 issue a MLO license to Miller pursuant to Financial Code section 50513 (MLO License). In  
28 consideration for the issuance of the MLO License, Miller hereby understands and agrees that

1 retention of the MLO License is predicated upon Miller’s compliance with the following  
2 (Requirements):

3 a. Education. Miller shall annually complete at least 16 hours of continuing  
4 education offered by an NMLS-approved vendor for a period of three years, commencing on the  
5 Effective Date of this Agreement as defined in Paragraph 15.

6 b. Administrative Penalty. Miller shall pay to the Commissioner the amount of  
7 \$5,000.00 (Administrative Penalty) in one lump sum payment within 30 days of the Effective Date  
8 of this Agreement as defined in Paragraph 15. Miller shall remit the Administrative Penalty to the  
9 Commissioner via cashier's check or Automated Clearing House deposit to the Department of  
10 Business Oversight, Accounting, 1515 K Street, Suite 200, Sacramento, California 95814. Failure  
11 to timely pay the Administrative Penalty will be considered a violation of the terms of this  
12 Agreement.

13 c. Notice. Miller shall provide notice of compliance with the Requirements  
14 within five days of completion. Notice shall be sent to the Department of Business Oversight, Attn.  
15 Marisa I. Urteaga-Watkins, Counsel, 1515 K Street, Suite 200, Sacramento California 95814.

16 4. Breach. For five years from the Effective Date of this Agreement, as such date is  
17 defined in Paragraph 15, any one of the following shall be grounds for automatic revocation of the  
18 MLO License: (1) Miller’s failure to fulfill each and every Requirement in the manner set forth in  
19 the Agreement; (2) a finding by the Commissioner that Miller has violated or is violating any  
20 provision of the CRMLA, or the California Finance Lenders Law, or any state or federal law  
21 relating to his employment as a MLO; and, (3) any conviction of any felony or a misdemeanor  
22 involving an act of fraud, dishonesty or deceit. Miller also understands and hereby waives all  
23 notice and hearing rights to contest an immediate revocation of his MLO License initiated pursuant  
24 to this provision, which may be afforded under the CRMLA, the Administrative Procedure Act, the  
25 Code of Civil Procedure, or any other provision of law in connection with these matters.

26 5. Stipulation Coverage. The parties hereby acknowledge and agree that this  
27 Agreement is intended to constitute a full, final and complete resolution of the Administrative  
28 Action and that no further proceedings or actions will be brought by the Commissioner in

1 connection with these matters either under the CRMLA or any other provision of law, excepting  
2 therefrom any proceeding or action if such proceeding or action is based upon facts not presently  
3 known to the Commissioner or which were concealed from the Commissioner by Miller.

4 6. Resolution and Commissioner’s Duties. The parties further acknowledge and agree  
5 that nothing contained in this Agreement shall operate to limit the Commissioner’s ability to assist  
6 any other agency (city, county, state or federal) with any prosecution, administrative, civil or  
7 criminal, brought by any such agency against Miller based upon any of the activities alleged in  
8 these matters or otherwise.

9 7. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
10 has had an opportunity to seek independent advice from its attorney(s) and/or representatives with  
11 respect to the advisability of executing this Agreement.

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

22 9. Full Integration. This Agreement is the final written expression and the complete and  
23 exclusive statement of all the agreements, conditions, promises, representations, and covenants  
24 between the parties with respect to the subject matter hereof, and supersedes all prior or  
25 contemporaneous agreements, negotiations, representations, understandings, and discussions  
26 between and among the parties, their respective representatives, and any other person or entity, with  
27 respect to the subject matter covered hereby.

28 10. No Presumption from Drafting. In that the parties have had the opportunity to draft,

1 review and edit the language of this Agreement, no presumption for or against any party arising out  
2 of drafting all or any part of this Agreement will be applied in any action relating to, connected to,  
3 or involving this Agreement. Accordingly, the parties waive the benefit of Civil Code section 1654  
4 and any successor or amended statute, providing that in cases of uncertainty, language of a contract  
5 should be interpreted most strongly against the party who caused the uncertainty to exist.

6 11. No Coercion. Miller enters into this Agreement voluntarily and without coercion and  
7 acknowledges that no promises, threats or assurances have been made by the Commissioner or any  
8 officer, or agent thereof, about this Agreement.

9 12. Waiver, Modification and Qualified Integration. The waiver of any provision of this  
10 Agreement shall not operate to waive any other provision set forth herein, and any waiver,  
11 amendment and/or change to the terms of this Agreement must be in writing and signed by the  
12 parties.

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

17 14. Governing Law. This Agreement shall be construed and enforced in accordance with  
18 and governed by California law.

19 15. Effective Date. This Agreement shall not become effective until signed by all parties  
20 and delivered by the Commissioner’s agent to zachmiller768@gmail.com.

21 16. Settlement Authority. Each signator hereto covenants that he/she possesses all  
22 necessary capacity and authority to sign and enter into this Agreement.

23 17. Binding. This Agreement is binding on all heirs, assigns and/or successors in  
24 interest.

25 18. Notice. Any notices required under this Agreement shall be provided to each party  
26 at the following addresses:

27 If to Respondent to: Zachary A. Miller  
28 10635 Lake Steilacoom Drive SW  
Lakewood, Washington 98498

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If to the Commissioner to:

Marisa I. Urteaga-Watkins, Counsel  
Department of Business Oversight  
1515 K Street, Suite 200  
Sacramento, California 95814

Dated: 2/10/17

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division

Dated: 2/8/17

By \_\_\_\_\_  
ZACHARY ANDREW MILLER