

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN ROONEY  
Assistant Chief Counsel  
3 KENNY V. NGUYEN (State Bar No. 233385)  
Senior Counsel  
4 Department of Business Oversight  
1515 K Street, Suite 200  
5 Sacramento, California 95814  
Telephone: (916) 322-8782  
6 Facsimile: (916) 445-8730  
Attorneys for Complainant  
7

8  
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
10 OF THE STATE OF CALIFORNIA  
11

12 In the Matter of: ) ESCROW LICENSE NO.: 963-2469  
13 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) SETTLEMENT AGREEMENT  
14 Complainant, )  
15 v. )  
16 PEARL ESCROW CORPORATION, )  
17 Respondent. )  
18

19 This Settlement Agreement is entered between the Department of Business Oversight  
20 (Department) through the Commissioner of Business Oversight (Commissioner), on the one hand,  
21 and Pearl Escrow Corporation (Pearl Escrow) on the other hand (hereafter, the Parties), and is made  
22 with respect to the following:

23 RECITALS

- 24 A. At all relevant times, Pearl Escrow was a corporation formed in California with a  
25 business address of 12501 Philadelphia Street, Suite A, Whittier, California 90601.  
26 B. On August 13, 2007, Pearl Escrow was first licensed as an escrow agent by the  
27 Commissioner pursuant to the Escrow Law (Fin. Code, § 17000 et seq.) (Escrow Law).  
28

1 C. On or about November 29, 2011, the Commissioner issued an Accusation against  
2 Pearl Escrow in support of the suspension of Pearl Escrow's escrow agent license. The Accusation  
3 was based on the Commissioner's findings that Pearl Escrow violated Financial Code sections 17406  
4 (failure to timely submit audit reports) and 17210 (failure to maintain minimal amounts of tangible  
5 net worth and liquid assets at all times).

6 D. On or about March 15, 2012, the Commissioner issued an Order suspending Pearl  
7 Escrow's escrow agent license for one month, based on the November 29, 2011 Accusation. Pearl  
8 Escrow's escrow agent license was thereafter suspended for one month.

9 E. On September 15, 2016, Pearl Escrow was sold to new owners.

10 F. On or about December 30, 2016, the Department received and reviewed Pearl  
11 Escrow's Financial Statements Year Ended July 31, 2016 with Independent Auditors' Report and  
12 Supplementary Comments (July 2016 Audit Report).

13 G. The July 2016 Audit Report revealed that Pearl Escrow again failed to meet the  
14 minimal amounts of tangible net worth (\$50,000) and liquid assets (\$25,000) at all times during the  
15 period of fiscal year 2015-2016. Despite receiving notice of this deficiency from the Department,  
16 Pearl Escrow did not remedy the deficiency until July 2017.

17 H. In March 2018, the DBO requested and received Pearl Escrow's Financial Statement  
18 dated February 28, 2018. The February 28, 2018 Financial Statement showed that Pearl Escrow  
19 again failed to meet the minimal amounts of tangible net worth (\$50,000) and liquid assets (\$25,000).

20 I. On the basis of the fact that between June 2015 and July 2017, and again in January  
21 2018, Pearl Escrow failed to maintain a tangible net worth of \$50,000.00, including liquid assets of at  
22 least \$25,000.00 in excess of current liabilities, at all times, in violation of Financial Code section  
23 17210, subdivision (a), the Commissioner issued an accusation and notice of intention to issue order  
24 to suspend Pearl Escrow's license pursuant to Financial Code section 17608 on April 10, 2018. A  
25 true and correct copy of the Accusation and Notice of Intention is attached and incorporated herein as  
26 Exhibit A. The Commissioner also issued an Order to Discontinue Violations Pursuant to Financial  
27 Code Section 17602 on April 10, 2018. A true and correct copy of the Order to Discontinue is  
28 attached and incorporated herein as Exhibit B.

1 J. Pearl Escrow timely requested an administrative hearing in regard to the Accusation  
2 and Order to Discontinue, which has been set for trial on August 29, 2018.

3 K. On or about August 7, 2018, Pearl Escrow submitted a proof of deposit showing it was  
4 currently in compliance with the requirements for maintaining minimum amounts for tangible net  
5 worth (\$50,000) and net liquid assets (\$25,000).

6 L. The Commissioner finds this Settlement Agreement is appropriate, in the public  
7 interest, for the protection of investors, and consistent with the purposes fairly intended by the policy  
8 and provisions of the Escrow Law.

9 M. It is the intention and desire of the Parties to resolve this Action without the necessity  
10 of a hearing and/or other litigation.

11 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
12 forth herein, the Parties agree as follows:

13 TERMS AND CONDITIONS

14 1. Purpose. The purpose of this Settlement Agreement is to resolve the foregoing issues  
15 in a manner that avoids the expense of a hearing and possible other court proceedings.

16 2. Order to Discontinue Violations. Pearl Escrow hereby stipulates to the finality of the  
17 Order to Discontinue Violations Pursuant to Financial Code Section 17602, for violations of  
18 Financial Code section 17210.

19 3. Order for Monthly Reporting and Monitoring of Financials. Pearl Escrow agrees that  
20 for a period of 12 months immediately following full execution of this Settlement Agreement, it will  
21 monitor its financial statements on a monthly basis and on the 20th day of each month shall furnish  
22 financial statements to Kenny V. Nguyen, Senior Counsel, Enforcement Division, showing  
23 compliance with the minimum tangible net worth and liquid asset requirements under Financial Code  
24 section 17210 for the prior month. Pearl Escrow further agrees to take immediate steps to correct any  
25 tangible net worth and net liquid asset deficiencies so that the financial statements for the subsequent  
26 month will reflect compliance with the requirements under Financial Code section 17210. If the  
27 deficiencies are not addressed by the following month, Pearl Escrow agrees to an immediate  
28 suspension of escrow activities for two weeks or until compliance is proven to the Department's

1 satisfaction.

2 4. Order for Payment of Costs. Pearl Escrow shall pay to the Commissioner \$3,000.00  
3 to partially offset the costs of bringing this action no later than 10 days after the Effective Date of this  
4 Settlement Agreement. In the event the payment due date falls on a weekend or holiday, the payment  
5 shall be due the next business day. The payment shall be made payable in the form of a cashier’s  
6 check or Automated Clearing House deposit to the “Department of Business Oversight,” and  
7 transmitted to the attention of:

8 ATTN: Accounting – Litigation  
9 Department of Business Oversight  
10 1515 K Street, Suite 200  
11 Sacramento, California, 95814

12 Notice of payment shall be sent to:

13 Kenny V. Nguyen  
14 Senior Counsel, Enforcement Division  
15 Department of Business Oversight  
16 1515 K Street, Suite 200  
17 Sacramento, California 95814  
18 E-mail: Kenny.Nguyen@dbo.ca.gov

19 5. Waiver of Hearing Rights. Pearl Escrow agrees that this Settlement Agreement shall  
20 have the effect of withdrawing its request for an administrative hearing on the matter set forth  
21 herein. Pearl Escrow acknowledges its right to an administrative hearing under the Escrow Law in  
22 connection with the Accusation and Order to Discontinue set forth above, and hereby waives such  
23 right to hearing, and to any reconsideration, appeal, including those rights under the Escrow Law  
24 and Financial Code, the California Administrative Procedures Act (Gov. Code, § 11400 et seq.), and  
25 the Code of Civil Procedure with respect to the issuance of the Order to Discontinue Violation, the  
26 Order for Monthly Reporting and Monitoring of Financials, the Order for Payment of Costs, and the  
27 Failure to Comply remedy specified in Paragraphs 2, 3, 4, and 6.

28 6. Failure to Comply. Pearl Escrow agrees that if it fails to pay the costs payment as  
provided for in Paragraph 4, or fails to comply with the order for monthly reporting and monitoring  
of financials provided for in Paragraph 3, above, the Commissioner may, in her discretion, summarily

1 revoke Pearl Escrow's escrow agent license; and Pearl Escrow waives any rights to review or hearing  
2 in accordance therewith.

3 7. Future Actions by the Commissioner. The Parties acknowledge and agree that nothing  
4 contained in this Settlement Agreement shall limit the ability of the Commissioner to bring any  
5 administrative or civil action to enforce compliance with this Settlement Agreement or to seek  
6 penalties for its violation. Further, the Commissioner reserves the right to bring any future action(s)  
7 against Pearl Escrow or any of the managers, officers, directors, shareholders or employees of Pearl  
8 Escrow for all unknown or future violations of the Escrow Law and Financial Code.

9 8. Independent Legal Advice. Pearl Escrow represents, warrants, and agrees that it has  
10 had the opportunity to seek independent advice from legal counsel and/or representative with respect  
11 to the advisability of executing this Settlement Agreement.

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

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

25 11. Full Integration. This Settlement Agreement is the final written expression and the  
26 complete and exclusive statement of all the agreements, conditions, promises, representations, and  
27 covenants between the parties with respect to the subject matter hereof, and supersedes all prior or  
28 contemporaneous agreements, negotiations, representations, understandings, and discussions between

1 and among the Parties, their respective representatives, and any other person or entity, with respect to  
2 the subject matter covered hereby.

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

10 13. Effect Upon Future Proceedings. If Pearl Escrow applies for any license, permit or  
11 qualification under the Commissioner's current or future jurisdiction, or if Pearl Escrow is the subject  
12 of any future action by the Commissioner to enforce this Settlement Agreement, then the subject  
13 matter hereof shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

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

17 15. Terms, Headings and Governing Law. All terms used, but not defined herein, shall  
18 have the meaning assigned to them by the Escrow Law and the Financial Code. The headings to the  
19 paragraphs of this Settlement Agreement are inserted for convenience only and will not be deemed a  
20 part hereof or affect the construction or interpretation of the provisions hereof. This Settlement  
21 Agreement shall be construed and enforced in accordance with, and governed by, the laws of the  
22 State of California.

23 16. Authority to Execute. Each party warrants and represents that such party is fully  
24 entitled and duly authorized to enter into and deliver this Settlement Agreement. In particular, and  
25 without limiting the generality of the foregoing, each party warrants and represents that it is fully  
26 entitled to enter into the covenants, and undertake the obligations set forth herein.

27 17. Signatures. This Settlement Agreement may be executed by facsimile or scanned  
28 signature, and any such facsimile or scanned signature by any party hereto shall be deemed to be an

1 original signature and shall be binding on such party to the same extent as if such facsimile or  
2 scanned signature were an original signature.

3 18. Public Record. Pearl Escrow acknowledges that this Settlement Agreement is a public  
4 record. Pearl Escrow further understands and agrees to not make any statement or representation that  
5 is inconsistent with the Settlement Agreement.

6 19. Voluntary Agreement. The Parties each represent and acknowledge that in executing  
7 this Settlement Agreement, each does so completely voluntarily and without any duress or undue  
8 influence of any kind from any source.

9 20. Effective Date: This Agreement shall not become effective until signed by all parties  
10 and delivered by the Commissioner’s counsel by email at: [Kenny.Nguyen@dbo.ca.gov](mailto:Kenny.Nguyen@dbo.ca.gov).

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: 8/15/18

JAN LYNN OWEN  
Commissioner of Business Oversight

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

PEARL ESCROW CORPORATION

Dated: 8/15/18

By: \_\_\_\_\_  
HECTOR ANTONIO ALVARADO  
President of Pearl Escrow Corporation