

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN WEINGER
Deputy Commissioner
3 ERIK BRUNKAL (SBN: 166086)
Senior Corporations Counsel
4 LINDSAY HERRICK (SBN: 224986)
1515 K Street, Suite 200
5 Sacramento, CA 95814-4052
Telephone: (916) 322-8782
6
7 Attorneys for Plaintiff
California Corporations Commissioner

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF CONTRA COSTA

11 PRESTON DuFAUCHARD) CASE NO.: C 10-01858
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) SETTLEMENT AGREEMENT AND
13) MUTUAL RELEASE OF CLAIMS
Plaintiff,)
14)
vs.)
15)
16 RONALD. M. WILSON, WILLIAM)
COLLINS, ROME FINANCE COMPANY)
17 (GA), LLC and DOES 1-20, inclusive,)
18)
Defendants.)
19)
20)

21 This Settlement Agreement and Mutual Release of Claims (“Agreement”) is entered into by
22 and between the STATE OF CALIFORNIA by and through Preston DuFauchard, California
23 Corporations Commissioner (“Plaintiff”), on the one hand, and ROME FINANCE COMPANY (GA)
24 LLC (“Rome”) , RONALD WILSON (“Wilson”) AND WILLIAM COLLINS (“Collins”) (jointly
25 referred to as "Defendants") (sometimes collectively referred to as the “Parties”).

26 I. RECITALS

27 A. On July 14, 2010, Plaintiff filed a Complaint in Contra Costa County Superior Court,
28 entitled *California Corporations Commissioner v. Wilson et al.*, Case No. C10-01858 (“Action”). On

1 March 1, 2011, Plaintiff filed a First Amended Complaint adding William Collins, individually, as a
2 defendant. In the Action, Plaintiff seeks civil penalties and an injunction against Defendants Ron M.
3 Wilson, William Collins, Rome Finance Company (GA), LLC, and each of them, jointly and
4 severally, for violations of the Corporations and Financial Codes, all as more specifically alleged in
5 the Complaint.

6 B. Defendants, without admitting or denying the allegations in the First Amended
7 Complaint hereby enter into this settlement agreement.

8 C. The Parties desire to settle and resolve all claims between themselves arising from
9 Action and other events and transactions that are the subject of the Action, and to avoid further
10 litigation expense.

11 II. AGREEMENT

12 In mutual consideration of the promises and covenants herein contained, the Parties agree as
13 follows:

14 1. RELEASES:

15 A. Release: With the exception of any of their respective rights and obligations created
16 pursuant to this Agreement, upon execution of this Agreement each party to this Agreement hereby
17 mutually releases and discharges the other, its predecessors, successors and assigns and their
18 respective officers, directors, employees, other representatives and shareholders, from any and all
19 known claims, demands, causes of action, obligations, and liabilities of every kind and nature
20 whatsoever which each had, or claims to have had, or now has, against the other, which relate to or
21 arises out of any agreements, transactions, events or circumstances which are the subject of the
22 Action.

23 2. CONSIDERATION:

24 A. Promise, Act or Forbearance by Wilson, Rome and Collins. As consideration for this
25 Agreement Wilson, Rome and Collins shall:

26 (i) Stipulate to a Permanent Injunction prohibiting Defendants, and each of them,
27 from violating sections 25110 and 25401 of the California Corporations Code and section 22100 of
28 the California Financial Code, requiring the reduction in interest rates of any and all consumer paper

1 acquired on or before April 25, 2009 to no more than 10% per annum, and requiring Defendants to
2 remove any negative credit reports from any consumer who performs satisfactorily without any
3 defaults for a 12-month period under the new (10%) terms of their contracts with Defendants.

4 (ii) Pay to Plaintiff civil penalties in the amount of Two Hundred Fifty Thousand
5 Dollars (\$250,000.00) to be paid as follows;

6 a) Payments to start on the first day of the third month after the approval
7 of any Plan by United States Bankruptcy Court Northern District of California, entitled In re: Rome
8 Finance Co. Inc., Case No.: 08-45902 (“Estate”);

9 b) Payment shall be a minimum of Five Thousand Dollars (\$5,000.00) per
10 month with the entire balance to be paid in full within eighteen (18) months of the first payment;

11 c) The checks shall be Pay to the Order of the California Department of
12 Corporations and sent to Erik Brunkal at the address in paragraph “R,” below.

13 (iii) If the plan submitted by Rome, LLC for the Estate in In re: Rome Finance Co.
14 Inc., Case No.: 08-45902 is approved by the United States Bankruptcy Court
15 Northern District of California, pay to the Bankruptcy Estate of Rome
16 Financing Company, Inc, an estimated amount of \$6,100,000.00, which sum
17 includes:

18 a) Net collections of Rome LLC contracts in the forecasted amount of \$3.2
19 million for the period from one month after approval of the plan to the end
20 of the Plan;

21 b) Claim waived by Rome LLC in the approximate amount of \$1.2 million;

22 c) Funding by Rome LLC of Enhanced and Advanced in the amount of up to
23 \$250,000;

24 d) Payment by Rome LLC of professional fees in connection with the
25 preparation of the Plan of approximately \$300,000 (through January 31,
26 2011); and,

27 e) Forfeited Rome LLC equity in the approximate amount of 1.2 million.
28

1 (iv) Execute a Stipulated Amended Judgment in the amount of Four Million Five
2 Hundred Thousand Dollars (\$4,500,000.00) in civil penalties to be held by Plaintiff pursuant to the
3 terms in paragraph 3 of this Agreement;

4 (v) Execute a Stipulation For Judgment For Permanent Injunction And Other
5 Ancillary Relief As To Defendants Ronald. M. Wilson, Rome Finance Company (Ga), LLC and
6 William Collins; and

7 (vi) Be bound by the releases described in Paragraph 1 above (the "Releases").

8 B. Promise, Act or Forbearance by Plaintiff: As consideration for this Agreement,
9 Plaintiff shall;

10 (i) Upon payment of the amount required by this Agreement, file a dismissal of
11 the Action with prejudice except as to the permanent injunction which shall remain in force under the
12 jurisdiction of this court; and

13 (ii) Be bound by the Releases.

14 **3. STIPULATED AMENDED JUDGMENT.**

15 Concurrently with Defendants' execution and delivery of this Agreement to Plaintiff,
16 Defendants shall execute and deliver to Plaintiff, a Stipulated Amended Judgment in favor of Plaintiff
17 and against Defendants in the amount of Four Million Five Hundred Thousand Dollars
18 (\$4,500,000.00), in the form identical to that attached hereto as Exhibit "A" (The "Stipulated
19 Amended Judgment"). The Stipulated Amended Judgment shall be held by Plaintiff and not filed
20 except in the event of default by Defendants. "Default" shall be defined as a failure by Defendants to
21 make the payments required under this Agreement as provided in paragraph 2.A.ii. above. In the
22 event of a default, Plaintiff shall notify Defendants and its attorneys of record at the address set forth
23 below, of the default by first class mail. If Defendants do not cure the default within ten (10) days of
24 the delivery of the notice of default Plaintiff may immediately, without further notice to Defendants
25 or their counsel, present the Stipulated Judgment to the Court and have the same entered according to
26 the terms therein and take all appropriate steps to enforce that Stipulated Amended Judgment once
27 entered. At the same time Plaintiff presents the Stipulated Amended Judgment, Plaintiff will
28 complete and file the Declaration of Plaintiff in support of entry of Stipulated Amended Judgment in

1 the identical form attached hereto as Exhibit "B" ("Declaration") reflecting payments received up to
2 that point, which amounts shall be deducted from the Four Million Five Hundred Thousand Dollars
3 (\$4,500,00.00), in order to determine the amount of the Stipulated Amended Judgment.

4 Upon receipt of the final payment required by this Agreement, Plaintiff, within ten (10) days,
5 shall return the original Stipulated Amended Judgment to Rick L. Raynsford at the address set forth
6 below.

7 **4. INTERPRETATION AND ENFORCEMENT:**

8 A. Entire Agreement: This Agreement constitutes the entire agreement between the
9 Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous
10 agreements, representations, and understandings of the Parties. No supplement, modification or
11 amendment to this Agreement shall be binding unless executed in writing by all Parties. No waiver
12 of any of the provisions of this Agreement shall be deemed, or shall constitute, waiver of any other
13 provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver
14 shall be binding unless executed in writing by the party making the waiver.

15 B. However, Defendants acknowledge that this Settlement Agreement and Mutual
16 Release resulting in permanent injunctions and civil penalties against the Defendants shall not
17 prohibit or preclude any other federal or state or county agency from initiating any other prosecution
18 based upon the facts and circumstances the DOC alleges resulted in statutory violations in this matter
19 or based upon any other facts or acts of the Defendants which may violate federal or state law.
20 Defendants agrees and acknowledges that nothing in this settlement, mutual release, or the Court's
21 order of permanent injunction shall preclude the Commissioner of the DOC or his agents or
22 employees, to the extent authorized by law and required by statute, from referring any evidence or
23 information regarding this matter to any district attorney or any other state of federal law enforcement
24 official, or from assisting, cooperating, or co-prosecuting with regards to any investigation and/or
25 action brought by any other federal, state or county agency. Defendants further agrees and
26 acknowledges that nothing in this settlement and mutual release shall bind or otherwise prevent any
27 other federal, state, or county agency from the performance of its duties. Other than the parties to this
28 action, the California Department of Corporations and the Defendants, this settlement and release is

1 not effective between, nor does it affect the rights of, any other parties or persons, be they corporate,
2 governmental or individual. Specifically, this agreement is not intended to extend to any other
3 corporate entities or any of the individual control persons, investors, managers, directors, officers, or
4 owners of the Defendants, to any of the investors in the Defendants, to any of the consumer
5 borrowers and is not intended to waive or settle or compromise any claims any individuals may have
6 against the Defendants or any claims that the Department of Corporations may have against any
7 persons or entities other than the Defendants.

8 C. Counterparts: This Agreement may be executed simultaneously in one or more
9 counterparts, each of which shall be deemed an original, but all of which together shall constitute one
10 and the same instrument. A facsimile signature shall be deemed an original for purposes of
11 enforcement of this Agreement.

12 D. Further Documents: Each party agrees it will execute or cause to be executed such
13 further and other documents as are needed to carry out the expressed intents and purposes of this
14 Agreement. It is understood that should it develop that there are any mistakes in this Agreement
15 which would cause the release and discharge of the Parties to be defective or less than complete, or if
16 it or any provision is declared unenforceable by a court or arbitrator for any reason, then the Parties
17 shall execute any and all other instruments and do any and all other things necessary to effectuate a
18 full, final and complete release of claims or possible claims in connection with the matter set forth in
19 this Agreement.

20 E. No Admission of Liability. It is understood that this Agreement is given in
21 compromise of disputed claims. Neither the settlement nor the performance of any terms of this
22 Agreement shall be construed as an admission of liability on behalf of any of the Parties hereto, said
23 Parties intending merely to avoid the expense of litigation.

24 F. Ownership of Claims: The Parties represent and warrant that there has been no
25 assignment or other transfer of any interest in any claim which they might have.

26 G. Law and Venue: This Agreement is to be governed by, and construed in accordance
27 with, the laws of the State of California. Any action arising out of or relating to this Agreement shall
28

1 be brought in a court of competent jurisdiction located in the County of Contra Costa, State of
2 California.

3 H. Attorney's Fees: In the event any litigation or other proceeding is brought to enforce
4 the terms of this Agreement, or in the event of any litigation or other proceeding involving, arising
5 out of, or in connection with this Agreement, each party shall bear their own costs for attorneys' fees,
6 expenses and other costs.

7 I. Binding Agreement: This Agreement together with the releases herein contained,
8 shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal
9 representatives, successors in interest, and assignees of the respective parties.

10 J. Modification: This Agreement may not be amended or modified other than by an
11 instrument in writing, signed by the party against whom enforcement of the amendment or
12 modification is sought.

13 K. Time of the Essence: The parties agree that time is of the essence with respect to the
14 performance of each and every obligation and condition of this Agreement. However, Plaintiff's
15 failure to notify Defendants of a default by first class mail as described in paragraph 3, shall not
16 relieve the Defendants from the default nor waive any rights of the Plaintiff or duties of the
17 Defendants under this agreement.

18 L. Waiver: A breach of this Agreement may be waived only by a written waiver signed
19 by the party granting the waiver. The waiver of any breach shall neither operate nor be construed as
20 a waiver of any other breach of this Agreement or as a continuing waiver.

21 M. Attorney's Fees and Costs Incurred: Each party hereto shall bear its own costs and
22 attorneys' fees incurred in connection with the negotiation of this Agreement and the matters released
23 by this Agreement, except as may be expressly provided for herein.

24 N. Party Representations and Warranties: Each of the parties to this Agreement
25 represents, warrants and agrees as follows:

26 a. This Agreement has, in all respects, been voluntarily and knowingly executed
27 by such party.

28

1 b. Such party has had an opportunity to seek and has sought legal advice from
2 legal counsel of such party's choice with respect to the advisability of executing this Agreement.

3 c. Such party has made such investigation of the facts pertaining to this
4 Agreement as such party deems necessary.

5 d. The terms of this Agreement are the result of negotiations among the parties
6 and are entered into in good faith by the parties in accordance with California law.

7 e. This Agreement has been carefully read by such party and the contents hereof
8 are known and understood by such party.

9 f. Such party has not heretofore assigned or transferred any matter released by
10 this Agreement or any part or portion thereof.

11 O. Partial Invalidity: If any one or more of the covenants, provisions, or terms of this
12 Agreement shall be held invalid for any reason, then such covenants, provisions, or terms shall be
13 deemed severable from the remaining covenants, provisions, or terms of this Agreement and shall in
14 no way affect the validity or enforceability of the other covenants, provisions, and terms of this
15 Agreement. Each party to this Agreement represents and warrants to the other parties that such party
16 does not believe that any covenant, provision, or term of this Agreement is invalid for any reason.

17 P. Interpretation: This document was mutually negotiated and drafted by the parties. No
18 provision of this Agreement shall be interpreted for, or against, a party because such party drafted or
19 requested such provision.

20 R. Notices: Any notice required hereunder shall be complete upon placement in a sealed
21 envelope, first class mail, postage prepaid with the United States Postal Service. Any notice or
22 documents required to be provided under the terms of this Agreement shall be sent to the following:

23
24 Rome and Wilson: Rick L. Raynsford
 Law Offices of Rick L. Raynsford
25 28462 Shrike
 Laguna Niguel, CA 92677

26
27 Collins: William R. Collins Jr.
 6111 Peachtree Dunwoody Rd. N. E., Ste B 102
28 Atlanta, Ga. 30328

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

State of California: Erik Brunkal, Senior Corporations Counsel
Enforcement Division
California Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814

DATED: 7/8/11 PRESTON DuFAUCHARD, California Corporations Commissioner

By: _____
ALAN S. WEINGER, Deputy Commissioner
California Department of Corporations

DATED: June 28, 2011 ROME FINANCE COMPANY (GA) LLC

By: _____
RONALD WILSON, Managing Member

DATED: June 28, 2011 By: _____
RONALD WILSON, an individual

DATED: June 30, 2011 By: _____
WILLIAM COLLINS, an individual