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

11 In the Matter of:) CFL LICENSE NO.: 60DBO-56445
12 THE COMMISSIONER OF BUSINESS) SETTLEMENT AGREEMENT
13 OVERSIGHT,)
14 Complainant,)
15 v.)
16 SPRING EQ, LLC,)
17 Respondent.)
18)
19)

20 This Settlement Agreement is entered into between the Commissioner of Business Oversight
21 (Complainant or Commissioner) and Respondent Spring EQ, LLC (Respondent) and is made with
22 respect to the following facts:

23 **I.**

24 **RECITALS**

25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
26 entities engaged in the business of finance lending or brokering under the California Financing Law
27 (CFL) (Fin. Code, § 22000 et seq.).
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1 B. Spring EQ, LLC is a limited liability company with a principal place of business at
2 2929 Arch Street, Suite 500 Philadelphia, Pennsylvania, 19104.

3 C. Spring EQ, LLC is licensed as a finance lender under the CFL with main license
4 number 60DBO-56445.

5 D. Respondent operates one branch office under CFL license number 60DBO-79012.

6 E. In accordance with Financial Code section 22159, CFL licensees must file an annual
7 report with the Commissioner by March 15 of each year (Annual Report).

8 F. On January 16, 2018, the Commissioner notified CFL licensees of the March 15,
9 2018 deadline to file their annual reports by sending notice to the email address of each CFL
10 licensee established pursuant to the Commissioner's Order on Electronic Communications, dated
11 November 22, 2013. The notification admonished licensees that the Commissioner could assess
12 penalties and summarily revoke CFL licenses for untimely filing or failing to file pursuant to
13 Financial Code section 22715.

14 G. On February 20, 2018, the Commissioner again notified CFL licenses of the March
15 15, 2018 deadline to file their annual reports by sending notice to the email address of each CFL
16 licensee established pursuant to the Commissioner's Order on Electronic Communications, dated
17 November 22, 2013. The notification again warned that the Commissioner could assess penalties and
18 summarily revoke licenses for untimely filing or failing to file pursuant to Financial Code section
19 22715.

20 H. As of March 19, 2018, Respondent had not filed its Annual Report with the
21 Commissioner. As a result, the Commissioner issued orders by certified mail revoking Respondent's
22 licenses pursuant to Financial Code section 22715 effective April 9, 2018 unless Respondent filed its
23 Annual Report by April 6, 2018.

24 I. As of April 11, 2018, Respondent had not filed its Annual Report with the
25 Commissioner. As a result, on April 11, 2018, the Commissioner issued Orders Summarily
26 Revoking California Finance Lenders License Pursuant to Financial Code Section 22715 for CFL
27 License Numbers 60DBO-56445 and 60DBO-79012 (collectively, Summary Revocation Orders).
28

1 J. Upon receiving the Summary Revocation Orders, Respondent timely notified the
2 Commissioner that Respondent was requesting a hearing on the Summary Revocation Orders.

3 K. On April 19, 2018, Respondent submitted its Annual Report, which was due on
4 March 15, 2018, 24 business days late. Pursuant to Financial Code Section 22715, the maximum
5 penalty that may be imposed for filing 24 business days late is \$8,500.00.

6 L. In connection with these proceedings, Respondent represented to the Commissioner
7 that it had not taken new applications under its licenses following issuance of the Summary
8 Revocation Orders through April 23, 2018, in violation of Financial Code Section 22100.

9 M. The Commissioner finds that entering into this Settlement Agreement is in the public
10 interest and consistent with the purposes fairly intended by the policies and provisions of the CFL.

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

13 **II.**

14 **TERMS AND CONDITIONS**

15 1. Purpose. The parties intend to resolve this matter for the purpose of judicial economy
16 and expediency and without the uncertainty and expense of a hearing or other litigation.

17 2. Waiver of Hearing Rights. Spring EQ, LLC hereby agrees to withdraw its request for
18 an administrative hearing on the Summary Revocation Orders. Spring EQ, LLC acknowledges its
19 right under the CFL to an administrative hearing on the Summary Revocation Orders and hereby
20 waives such right to a hearing and to any reconsideration, appeal, injunction or other review that
21 may be afforded under the Financial Code; Administrative Procedure Act, including Government
22 Code section 11415.60, subdivision (b); Code of Civil Procedure; or any other provision of law. By
23 waiving such rights, Spring EQ, LLC effectively consents to the finality of the Summary Revocation
24 Orders.

25 3. Order Rescinding Revocation Order(s). The Commissioner hereby rescinds the
26 revocation orders referenced in paragraphs H and I.

27 4. Administrative Penalties. Spring EQ, LLC shall pay an administrative penalty of
28 \$5,000.00 no later than 30 days after the effective date of this Settlement Agreement as defined in

1 paragraph 18. The penalty must be made payable in the form of a cashier's check or Automated
2 Clearing House deposit to the Department of Business Oversight and transmitted to the attention of:
3 Accounting – Litigation, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento,
4 California 95814. Notice of the payment must be concurrently sent to Senior Counsel Paul Yee,
5 Department of Business Oversight, One Sansome Street, Suite 600, San Francisco, California 94104.

6 5. Failure to Pay Administrative Penalty. If Spring EQ, LLC fails to comply with
7 paragraph 4, the Commissioner may summarily suspend it from engaging in business under its
8 licenses until it provides evidence of compliance to the Commissioner's satisfaction. Spring EQ,
9 LLC hereby waives any notice or hearing rights afforded under the Administrative Procedure Act,
10 including Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any
11 other provision of law to contest the suspension contemplated by this paragraph.

12 6. Full and Final Resolution. Except as stated in paragraph 5, this Settlement
13 Agreement is intended to constitute a full and final resolution of the matter described in it. The
14 Commissioner will not bring any further action or proceeding concerning the matter unless she
15 discovers violations by Spring EQ, LLC that do not form the basis for this Settlement Agreement,
16 including evidence contrary to the representations made by Respondent in paragraph L and/or
17 violations knowingly concealed from the Commissioner.

18 7. Commissioner's Duties. Nothing in this Settlement Agreement limits the
19 Commissioner's ability to assist any other government agency with any action brought by that
20 agency against Spring EQ, LLC, including an action based on any of the acts, omissions, or events
21 described in this Settlement Agreement.

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

25 9. Reliance. Each of the parties represents, warrants, and agrees that in executing this
26 Settlement Agreement it has relied solely on the statement set forth herein and has had the
27 opportunity to seek the legal advice of its own counsel. Each of the parties further represents,
28 warrants, and agrees that in executing this Settlement Agreement it has placed no reliance on any

1 statement, representation, or promise of any other party, or any other person or entity not expressly
2 set forth herein, or upon the failure of any party or any other person or entity to make any statement,
3 representation, or disclosure of anything whatsoever. The parties have included this clause: (1) to
4 preclude any claim that any party was in any way fraudulently induced to execute this Settlement
5 Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or
6 contradict the terms of this Settlement Agreement.

7 10. Full Integration. This Settlement Agreement is the final written expression and the
8 complete and exclusive statement of all the agreements, conditions, promises, representations, and
9 covenants between the parties with respect to the subject matter hereof, and supersedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions
11 between and among the parties, their respective representatives, and any other person or entity, with
12 respect to the subject matter covered hereby. The parties have included this clause to preclude the
13 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
14 Settlement Agreement.

15 11. No Presumption Against Drafter. In that the parties have had the opportunity to draft,
16 review, and edit the language of this Settlement Agreement, no presumption for or against any party
17 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
18 relating to, connected to, or involving this Settlement Agreement. Accordingly, the parties waive the
19 benefit of Civil Code section 1654 and any successor or amended statutes, providing that in cases of
20 uncertainty, language of a contract should be interpreted most strongly against the party who caused
21 the uncertainty to exist.

22 12. Voluntary Agreement. Spring EQ, LLC hereby enters in this Settlement Agreement
23 voluntarily and without coercion and acknowledges that no promises, threats, or assurances have
24 been made by the Commissioner or any officer, or agent thereof, about this Settlement Agreement.

25 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
26 this Settlement Agreement will be valid or binding unless it is in writing and signed by all parties
27 affected by it. Waiver of a provision of this Settlement Agreement will not be deemed a waiver of
28 any other provision.

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

15. Public Record. Spring EQ, Inc. acknowledges that the Settlement Agreement is public record.

16. Headings. The headings to the paragraphs of this Settlement Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof.

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

18. Effective Date. This Settlement Agreement will become effective on the date it is signed by all parties and delivered by the Commissioner to Spring EQ, LLC by electronic mail at JJaffe@meyerbrown.com.

19. Settlement Authority. Each party represents that the person signing this Settlement Agreement on its behalf has the authority and capacity to do so.

Dated: 4/27/18

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 4/27/18

By _____
JERRY SHINO
SPRING EQ, LLC