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7

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

11 In the Matter of the Accusation of THE) FILE NO. 963-1110
CALIFORNIA COMMISSIONER OF)
12 BUSINESS OVERSIGHT,) **SETTLEMENT AGREEMENT**
13)
Complainant,)
14 v.)
15 THE ESCROW FORUM,)
16 Respondent.)
17)
18)
19)
20)

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22 This Settlement Agreement (“Agreement”) is entered into between The Escrow Forum
23 (“Escrow Forum”) and the California Commissioner of Business Oversight (“Commissioner”) with
24 respect to the following facts:

25 **RECITALS**

26 A. Escrow Forum is a California corporation in good standing and authorized to conduct
27 business in this State.

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1 B. Escrow Forum is an escrow agent licensed by the Commissioner under the Escrow
2 Law of the State of California (“Escrow Law”) (Fin. Code, § 17000 et seq.). Escrow Forum conducts
3 business at 23161 Lake Center Drive, Suite 120, Lake Forest, California.

4 C. Charles Kintner (“Kintner”) is Escrow Forum’s president and owner. Kintner is
5 authorized to enter into this Agreement on behalf of Escrow Forum.

6 D. On or about December 18, 2014, the Commissioner issued her Notice of Intention to
7 Issue Order Suspending Escrow Forum’s Escrow Agent’s License and Accusation (collectively
8 “Notice of Intention”) under section 17423 of the Financial Code. The Notice of Intention sought to
9 impose a two-week suspension against Escrow Forum for inflating title and loan payoff charges in
10 the borrowers’ settlement statements, hiding the inflated charges in the fee account at close of
11 escrow, and taking the inflated amounts as additional escrow fees in violation of sections 17400 and
12 17414 of the Financial Code and title 10, section 1741.3, of the California Code of Regulations.

13 E. The Commissioner personally served Escrow Forum with the Notice of Intention on or
14 about December 24, 2014. Escrow Forum timely filed its Notice of Defense with the Commissioner
15 on or about December 31, 2014.

16 F. It is the intention and desire of the parties to resolve this matter without the necessity
17 of a hearing and/or other litigation.

18 G. Without admitting or denying any of the Commissioner’s allegations as set forth
19 above or in the Commissioner’s Notice of Intention and Order to Discontinue Violations, Escrow
20 Forum has agreed not to defend against the allegations, but to pay a certain sum as set forth in this
21 Agreement and to abide by the order as set forth in the attached Order.

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

24 **TERMS AND CONDITIONS**

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

27 2. The parties agree to the issuance of a final Order to Discontinue Violations against
28 Escrow Forum for violating Financial Code sections 17400 and 17414 and title 10, section 1741.3, of

1 the California Code of Regulations (“Order”). Attached hereto as **Exhibit A** and incorporated herein
2 by reference is a true and correct copy of the final Order dated January 23, 2015.

3 3. Escrow Forum acknowledges that the Commissioner granted a hearing in connection
4 with the Order under Financial Code section 17604. Escrow Forum voluntarily waives its
5 right to a hearing, such that the Order is now final.

6 4. Escrow Forum further waives its right to any reconsideration, appeal, or other rights
7 which may be afforded to it under the Escrow Law; the Administrative Procedure Act (Govt. Code, §
8 11370 et seq.); the Code of Civil Procedure; or any other provision of law in connection with this
9 matter.

10 5. Escrow Forum further agrees to pay the Commissioner administrative penalties
11 totaling \$12,000.00 on or before February 10, 2015. The administrative penalties shall be paid by
12 way of a cashier’s check made payable to the Department of Business Oversight and mailed to the
13 attention of Blaine A. Noblett, Senior Corporations Counsel, Department of Corporations, 320 W. 4th
14 Street, Suite 750, Los Angeles, California 90013.

15 6. Escrow Forum enters into this Agreement voluntarily and without coercion and
16 acknowledges that no promises, threats, or assurances have been made by the Commissioner or any
17 officer, or agent thereof, about this Agreement.

18 7. The Commissioner reserves the right to bring any future actions against Escrow
19 Forum or any of its officers, directors, shareholders, or employees for any and all unknown or future
20 violations of the Escrow Law. This Agreement shall not serve to exculpate Escrow Forum or any of
21 its officers, directors, shareholders, or employees from any liability for any and all unknown or future
22 violations of the Escrow Law.

23 8. Escrow Forum acknowledges that nothing in this Agreement shall preclude the
24 Commissioner, or her agents or employees, to the extent authorized by law, from assisting or
25 cooperating in any investigation and/or action brought by any other federal, state, or county agency.
26 Escrow Forum further agrees that this Agreement shall not bind or otherwise prevent any other
27 federal, state, or county agency from the performance of its duties.

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1 9. Each of the parties represents, warrants, and agrees that they have received
2 independent advice from their attorneys and/or representatives with respect to the advisability of
3 executing this Agreement.

4 10. Each of the parties represents, warrants, and agrees that in executing this Agreement
5 they have relied solely on the statements set forth in the agreement and the advice of their own
6 attorneys and/or representatives. Each of the parties represents, warrants, and agrees that in executing
7 this Agreement they have placed no reliance on any statement, representation, or promise of any
8 other party, or any other person or entity not expressly set forth herein, or upon the failure of any
9 party or any other person or entity to make any statement, representation, or disclosure of anything
10 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any
11 way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol
12 evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

13 11. This Agreement is the final written expression and the complete and exclusive
14 statement of all stipulations, agreements, conditions, promises, representations, and covenants,
15 between the parties with respect to the matter hereof, and supersedes all prior or contemporaneous
16 agreements, discussions, negotiations, representations, and understanding between and among the
17 parties, their respective representatives, and any other person or entity, with respect to the subject
18 matter covered in this agreement.

19 12. In that the parties have had the opportunity to draft, review, and edit the language of
20 this Agreement, no presumption for or against any party arising out of drafting all or any part of this
21 Agreement will be applied in any action relating to, connected to, or involving this Agreement.
22 Accordingly, the parties waive the benefit of Civil Code section 1654 and any successor or amended
23 statute, providing that in cases of uncertainty, language of contract should be interpreted most
24 strongly against the party who caused the uncertainty to exist.

25 13. This Agreement shall not become effective until signed and delivered by all parties.

26 14. This Agreement may be executed in one or more separate counterparts, each of which
27 when so executed, shall be deemed an original but all of which, together, shall be deemed to
28 constitute a single document. The Agreement may be executed by facsimile or scanned signature, and

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

4 15. Each signatory hereto covenants that he or she possesses all necessary capacity and
5 authority to sign and enter into this Agreement.

6 Dated: 1/23/15 JAN LYNN OWEN
7 Commissioner of Business Oversight

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9 By: _____
10 MARY ANN SMITH
11 Deputy Commissioner
12 Enforcement Division

12 Dated: 1/21/15 THE ESCROW FORUM

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14
15 By: _____
16 CHARLES KINTNER
17 President

17 APPROVED AS TO FORM:
18 THE KARLIN LAW FIRM

19
20
21 By: _____
22 L. SCOTT KARLIN, ESQ. Attorney for
23 THE ESCROW FORUM

23 JAN LYNN OWEN
24 Commissioner of Business Oversight

25
26 By: _____
27 BLAINE A. NOBLETT
28 Senior Corporations Counsel