

1 ALAN S. WEINGER
Deputy Commissioner
2 BLAINE A. NOBLETT (SBN 235612)
Senior Corporations Counsel
3 DEPARTMENT OF CORPORATIONS
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4 Los Angeles, California 90013-2344
Telephone: (213) 576-1396 Fax: (213) 576-7181
5 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

11 In the Matter of THE CALIFORNIA)
CORPORATIONS COMMISSIONER,)
12)
Complainant,)

OAH Case No.: L-2011030410
File No.: Alpha

13) **SETTLEMENT AGREEMENT**

14 v.)

Hearing Dates: January 30-February 3, 2012
Time: 9:00 a.m.
Location: OAH – Los Angeles
320 West 4th St, Ste. 630
Los Angeles, CA 90013

15 LELAND ENERGY, INC.; LELAND)
KENTUCKY HOLDINGS, INC.; STEPHEN M.)
16 THOMPSON; ANNEX DRILLING FUND,)
LLP; THE APPALACHIAN DRILLING FUND)
17 II, LLP; BC-2 DRILLING FUND, LLP; BLOCK)
CITY DRILLING FUND, LLP; ENERGY)
18 PRODUCTION REVENUE FUND, LLP;)
GREEN COUNTY ENERGY FUND, LLP;)
19 KNOX DRILLING FUND, LLP; KNOX)
DRILLING FUND II, LLP; PRODUCTION)
20 REVENUE DRILLING FUND, LLP; and)
21 ROGERS PRODUCTION REVENUE FUND,)
LLP,)

Assigned To: ALJ Vincent H. Nafarrete

22 Respondents.)
23)
24)

25 IT IS HEREBY AGREED AND STIPULATED by and between Complainant, the California
26 Corporations Commissioner (“Commissioner”), and Respondents Leland Energy, Inc.; Leland
27 Kentucky Holdings, Inc.; Stephen M. Thompson; Annex Drilling Fund, LLP; The Appalachian
28 Drilling Fund II, LLP; BC-2 Drilling Fund, LLP; Block City Drilling Fund, LLP; Energy Production

1 Revenue Fund, LLP; Green County Energy Fund, LLP; Knox Drilling Fund, LLP; Knox Drilling
2 Fund II, LLP; Production Revenue Drilling Fund, LLP; and Rogers Production Revenue Fund, LLP
3 (collectively “Respondents”), that:

4 WHEREAS, on or about February 9, 2011, the Commissioner issued a Notice of Intention to
5 Issue Order Levying Administrative Penalties Pursuant to Corporations Code section 25252 and
6 Claim for Ancillary Relief Pursuant to Corporations Code section 25254; Statement in Support of
7 Order Levying Administrative Penalties Pursuant to Corporations Code section 25252, Claim for
8 Ancillary Relief Pursuant to Corporations Code 25254, Desist and Refrain Order (collectively
9 “Statement in Support”); and other supporting documents against Respondents for the sales of
10 securities that were, in the opinion of the Commissioner, offered and/or sold by means of
11 misrepresentations and/or omissions of material fact in violation of Corporations Code section 25401
12 of the Corporate Securities Law of 1968 (Corp. Code, § 25000 et seq.) (“CSL”). Attached hereto as
13 **Exhibit A** and incorporated herein by reference is a true and correct copy of the Statement in
14 Support, dated February 9, 2011.

15 WHEREAS, Respondents, without admitting or denying the allegations contained in the
16 Statement in Support, seek to resolve the Commissioner’s concerns by entering into this Settlement
17 Agreement (“Agreement”), the [Proposed] Final Judgment Pursuant to Settlement Agreement (“Final
18 Judgment”), and stipulating to the Statement in Support. Attached hereto as **Exhibit B** and
19 incorporated herein by reference is a true and correct copy of the Final Judgment.

20 NOW THEREFORE, the parties hereby agree and stipulate as follows:

21 A. Respondents, and each of them, have read the Statement in Support, this Agreement and
22 the Final Judgment.

23 B. Respondents, and each of them, hereby acknowledge that the Commissioner granted a
24 hearing in relation to the Statement in Support, presently set to commence on January 30, 2012,
25 before the Office of Administrative Hearings, which Respondents have a right to defend.

26 Respondents, and each of them, hereby voluntarily waive their right to a hearing in relation to the
27 Statement in Support for violations of Corporations Code section 25401 of the CSL for offering
28 and/or selling securities by means of misrepresentations and/or omissions of material fact, and

1 withdraw their hearing request.

2 C. This Agreement and Final Judgment shall be binding on the Commissioner and the
3 Commissioner's officers, employees, agents, representatives, successors, and attorneys and
4 Respondents and their subsidiaries, officers, employees, agents, representatives, successors, insurers,
5 attorneys, affiliated and related entities, principals, assignors, and assignees. The Commissioner and
6 Respondents shall collectively be referred to as the "Parties."

7 D. The Parties agree and stipulate that if any paragraph, clause, or provision of this
8 Agreement or Final Judgment entered thereto, or the application thereof, is held invalid or
9 unenforceable, such decision shall affect only the paragraph, clause or provision so construed or
10 interpreted, and the invalidity shall not affect the provisions or the application of this Agreement, or
11 of the Final Judgment entered thereto, which can be given effect without the invalid provisions or
12 application, and to this end, the provisions of the Agreement and Final Judgment entered thereto, are
13 declared by the Parties to be severable.

14 E. Respondents, and each of them, agree and stipulate that they enter into this Agreement
15 and Final Judgment without coercion, and acknowledge that no promises, threats or assurances have
16 been made by the Commissioner or any officer, or agent thereof, except for those expressly set forth
17 in this Agreement and Final Judgment, to induce the Respondents, and each of them, to enter into this
18 Agreement and Final Judgment.

19 F. Respondents, and each of them, agree and stipulate to pay the investors, as identified
20 below in Paragraph G., restitution ("Funds") totaling one million three hundred sixty-five thousand
21 nine hundred seventy-seven dollars and twenty-three cents (\$1,365,977.23). Respondents shall pay
22 the Funds to the investors on a pro rata basis by way of fifty-five installment payments, as set forth
23 below:

- 24 1. \$18,000.00 by May 1, 2012
- 25 2. \$18,000.00 by June 1, 2012
- 26 3. \$18,000.00 by July 1, 2012
- 27 4. \$18,000.00 by August 1, 2012
- 28 5. \$18,000.00 by September 1, 2012

- 1 6. \$18,000.00 by October 1, 2012
- 2 7. \$18,000.00 by November 1, 2012
- 3 8. \$18,000.00 by December 1, 2012
- 4 9. \$18,000.00 by January 1, 2013
- 5 10. \$18,000.00 by February 1, 2013
- 6 11. \$18,000.00 by March 1, 2013
- 7 12. \$18,000.00 by April 1, 2013
- 8 13. \$18,000.00 by May 1, 2013
- 9 14. \$18,000.00 by June 1, 2013
- 10 15. \$18,000.00 by July 1, 2013
- 11 16. \$18,000.00 by August 1, 2013
- 12 17. \$18,000.00 by September 1, 2013
- 13 18. \$18,000.00 by October 1, 2013
- 14 19. \$18,000.00 by November 1, 2013
- 15 20. \$18,000.00 by December 1, 2013
- 16 21. \$18,000.00 by January 1, 2014
- 17 22. \$18,000.00 by February 1, 2014
- 18 23. \$18,000.00 by March 1, 2014
- 19 24. \$18,000.00 by April 1, 2014
- 20 25. \$18,000.00 by May 1, 2014
- 21 26. \$18,000.00 by June 1, 2014
- 22 27. \$18,000.00 by July 1, 2014
- 23 28. \$18,000.00 by August 1, 2014
- 24 29. \$18,000.00 by September 1, 2014
- 25 30. \$18,000.00 by October 1, 2014
- 26 31. \$18,000.00 by November 1, 2014
- 27 32. \$18,000.00 by December 1, 2014
- 28 33. \$18,000.00 by January 1, 2015

- 1 34. \$18,000.00 by February 1, 2015
- 2 35. \$18,000.00 by March 1, 2015
- 3 36. \$18,000.00 by April 1, 2015
- 4 37. \$18,000.00 by May 1, 2015
- 5 38. \$18,000.00 by June 1, 2015
- 6 39. \$18,000.00 by July 1, 2015
- 7 40. \$18,000.00 by August 1, 2015
- 8 41. \$18,000.00 by September 1, 2015
- 9 42. \$18,000.00 by October 1, 2015
- 10 43. \$18,000.00 by November 1, 2015
- 11 44. \$18,000.00 by December 1, 2015
- 12 45. \$18,000.00 by January 1, 2016
- 13 46. \$18,000.00 by February 1, 2016
- 14 47. \$18,000.00 by March 1, 2016
- 15 48. \$18,000.00 by April 1, 2016
- 16 49. \$18,000.00 by May 1, 2016
- 17 50. \$18,000.00 by June 1, 2016
- 18 51. \$18,000.00 by July 1, 2016
- 19 52. \$18,000.00 by August 1, 2016
- 20 53. \$18,000.00 by September 1, 2016
- 21 54. \$18,000.00 by October 1, 2016
- 22 55. \$393,977.23 by October 31, 2016

23 In the event the installment payment due date falls on a weekend or public holiday, the installment
24 payment shall be due the following business day. Respondents, and each of them, further agree to
25 transmit any undelivered Funds, to be escheated, to the State Controller's Office, in accordance with
26 the provisions concerning unclaimed property beginning with section 1530 of the Code of Civil
27 Procedure.

28 G. The Funds set forth in Paragraph F., above, shall be paid to the following

1 investors as identified by the Commissioner in the Statement in Support:

- 2 1. Clifford V. Aaron
- 3 2. Virginia V. Aeschbacher
- 4 3. Leslie Blankenship
- 5 4. Roger Bragg
- 6 5. Larry J. Carniglia
- 7 6. Marianne M. Colin
- 8 7. Emro Dapcevic
- 9 8. Frances Deutsch
- 10 9. Tim Devine
- 11 10. Charles H. Eccleston, III
- 12 11. Robert Edwards
- 13 12. Cristino Escobar
- 14 13. Salvador R. Flores
- 15 14. Paulo & Giovanni Funicello
- 16 15. Paul S. Giles
- 17 16. Fred A. Hess
- 18 17. Kevin Jacobs
- 19 18. Tracy J. Knight
- 20 19. Duane G. Krautkremer
- 21 20. Donald O. Lohr
- 22 21. Richard C. Marshall
- 23 22. Clifford E. & Jeanette B. Meyer
- 24 23. Joseph A. Miller
- 25 24. Vivian & David Miller
- 26 25. Kevin P. Mitchell
- 27 26. Karl F. & Gloria A. Nigg
- 28 27. Robert M. Odell

- 1 28. Matthew E. Pohl
- 2 29. William & Jani Poindexter
- 3 30. Grace L. Recabo
- 4 31. Wesley D. Rowland
- 5 32. Mark Schniepp
- 6 33. Kenneth L. Shapiro
- 7 34. Robert Smith
- 8 35. Robert W. Smith
- 9 36. Ron Stahr
- 10 37. Judith Rutherford Stoff
- 11 38. James B. Tucker
- 12 39. G.L. Waugh
- 13 40. Roger Werner
- 14 41. Sanford M. Wichner
- 15 42. Bryan Wise

16 H. Respondents, and each of them, agree and stipulate to provide the Commissioner, on a
17 quarterly basis, commencing on July 2, 2012, and continuing thereafter for the duration of the
18 installment payment period, an accounting of the Funds paid to the investors named in Paragraph G.,
19 above (“Accounting”). The Accounting shall include: a schedule of payments made during the
20 quarter, including, a listing of the investors’ names (and/or the names of the investors’ estates, as
21 applicable), their current addresses, the amounts of payment, dates of payment, the check numbers
22 associated with the payments, the remaining amount of restitution due and owing the investors, and
23 copies of the cancelled payment checks, front and back. The Accounting shall be sent to the attention
24 of Blaine A. Noblett, Senior Corporations Counsel, Department of Corporations, 320 W. 4th Street,
25 Suite 750, Los Angeles, California 90013. If the Accounting’s due date falls on a weekend or public
26 holiday, the Accounting shall be due the following business day.

27 I. Respondents, and each of them, agree and stipulate to pay the Commissioner
28 administrative penalties totaling fifty-one thousand five hundred dollars (\$51,500.00) on or before

1 October 31, 2016. The administrative penalties shall be paid by way of a cashier's check made
2 payable to the Department of Corporations and mailed to the attention of Blaine A. Noblett, Senior
3 Corporations Counsel, Department of Corporations, 320 W. 4th Street, Suite 750, Los Angeles,
4 California 90013.

5 J. In the event that Respondents fail to timely make any installment payment, Accounting, or
6 pay the administrative penalties under this Agreement, Respondents shall be in default of this
7 Agreement. Upon default, the Commissioner may enforce Paragraph K. of this Agreement and seek
8 entry of the Final Judgment and/or may avail herself of any other rights she has against Respondents
9 under the Agreement or under applicable law based upon Respondents' default, provided that the
10 Commissioner must first give Respondents seven (7) business days written notice of the default.
11 Such notice of default shall be mailed to Respondents and their counsel, John Torbett, Jr., Esq., at
12 their last know addresses. However, if the late installment payment, Accounting, or administrative
13 penalties payment is received before the seven-day notice of default period has completely run, that
14 installment payment, Accounting, or administrative penalties payment shall be deemed timely under
15 the Agreement.

16 K. If Respondents are in default as set forth in Paragraph J., above, Paragraphs F. and I.
17 shall be void and Respondents, and each of them, shall be jointly and severally liable to the
18 Commissioner for a judgment in the amount of one million seven hundred thirty-three thousand four
19 hundred ninety-four dollars and twenty-three cents (\$1,733,494.23), immediately due and payable,
20 less any amounts paid in restitution or administrative penalties, of which one million six hundred
21 twenty-four thousand nine hundred ninety-four dollars and twenty-three cents (\$1,624,994.23) is to
22 be paid in investor restitution and one hundred eight thousand five hundred dollars (\$108,500.00) is
23 to be paid in administrative penalties and costs. Interest shall accrue on the Final Judgment at the
24 legal rate per annum pursuant to Code of Civil Procedure section 685.010, until said amount is paid
25 in full. The Respondents, and each of them, further consent to the entry of the Final Judgment in the
26 Superior Court. The Commissioner may seek to enforce the Final Judgment without any further
27 notice to Respondents. Respondents, and each of them, agree and stipulate to waive entry of
28 Findings of Fact and Conclusions of Law under Code of Civil Procedure section 632 and all rights to

1 appeal the entry of the Final Judgment. The Respondents, and each of them, further agree and
2 stipulate that entry of the Final Judgment pursuant to this Agreement may be made by a judge or by a
3 commissioner of the Superior Court and may be made *ex parte* without notice to any of the
4 Respondents.

5 L. The Parties agree and stipulate that each party shall bear their own expenses and costs,
6 including attorneys' fees, incurred in connection with the investigation of matters relating to the
7 Statement in Support in the above entitled matter and the preparation of the Statement in Support, this
8 Agreement, and the Final Judgment.

9 M. The Parties understand that the terms of this Agreement and Final Judgment are
10 contractual and not mere recitals. They are executed and agreed upon without reliance on any oral
11 representation of the Parties or their attorneys or any other person or entity not expressly set forth
12 herein, or upon the failure of any party or any other person or entity to make any statement,
13 representation or disclosure of anything whatsoever. The Parties have included this clause: (1) to
14 preclude any claim that any party was in any way fraudulently induced to execute this Agreement and
15 Final Judgment; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement,
16 or contradict the terms of this Agreement and Final Judgment.

17 N. In that the Parties have had the opportunity to draft, review and edit the language of this
18 Agreement and Final Judgment, no presumption for or against any party arising out of drafting all or
19 any part of this Agreement or Final Judgment will be applied in any action relating to or arising out
20 of this Agreement or Final Judgment. Accordingly, the Parties hereby waive the benefit of Civil
21 Code section 1654 and any successor statute.

22 O. Nothing in this Agreement or Final Judgment in this matter shall preclude any other
23 federal, state or county agency from initiating any other prosecution based upon the allegations
24 contained in the Statement in Support, in the above entitled matter, or based upon any other acts by
25 the Respondents which may violate federal or state law.

26 P. Nothing in this Agreement or Final Judgment in this matter shall preclude the
27 Commissioner, or his agents or employees, to the extent authorized by law, from assisting or
28 cooperating with any investigation and/or action brought by any other federal, state or county agency.

1 Further, nothing in the Agreement or Final Judgment in this matter shall bind or otherwise prevent
2 any other federal, state or county agency from the performance of their duties.

3 Q. A fax or e-mail scanned signature of this Agreement shall be as
4 effective as an original ink signature.

5 R. Each signatory hereto covenants that he/she possesses the necessary capacity and
6 authority to sign and enter into this Agreement and Final Judgment.

7 S. The Parties stipulate and agree that this Agreement may be executed
8 in one or more separate counterparts, each of which when so executed, shall be deemed an original.
9 Such counterparts shall together constitute and be one and the same instrument.

10 T. Whenever in this Agreement and Final Judgment the context may so require, the
11 masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular
12 refer to and include the plural, and vice versa.

13 DATED: ____1-30-12____ JAN LYNN OWEN
14 California Corporations Commissioner

15
16 By_____
17 Alan S. Weinger
18 Deputy Commissioner
19 Enforcement Division

20 DATED: ____1-27-12____ LELAND ENERGY, INC.

21
22 By_____
23 Stephen M. Thompson

24 ///

25 ///

26 ///

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28

1 DATED: ____ 1-27-12 ____

LELAND KENTUCKY HOLDINGS, INC.

2

3

By _____
Stephen M. Thompson

5

6 DATED: ____ 1-27-12 ____

STEPHEN M. THOMPSON, as an individual

7

8

By _____
Stephen M. Thompson

10

11 DATED: ____ 1-27-12 ____

ANNEX DRILLING FUND, LLP

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By _____
Stephen M. Thompson

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16 DATED: ____ 1-27-12 ____

THE APPALACHIAN DRILLING FUND II, LLP

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By _____
Stephen M. Thompson

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21 DATED: ____ 1-27-12 ____

BC-2 DRILLING FUND, LLP

22

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By _____
Stephen M. Thompson

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1 DATED: _____1-27-12_____

BLOCK CITY DRILLING FUND, LLP

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By _____
Stephen M. Thompson

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DATED: _____1-27-12_____

ENERGY PRODUCTION REVENUE FUND, LLP

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By _____
Stephen M. Thompson

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DATED: _____1-27-12_____

GREEN COUNTY ENERGY FUND, LLP

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By _____
Stephen M. Thompson

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DATED: _____1-27-12_____

KNOX DRILLING FUND, LLP

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By _____
Stephen M. Thompson

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DATED: _____1-27-12_____

KNOX DRILLING FUND II, LLP

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By _____
Stephen M. Thompson

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1 DATED: ____ 1-27-12 ____

PRODUCTION REVENUE DRILLING FUND, LLP

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By _____
Stephen M. Thompson

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DATED: ____ 1-27-12 ____

ROGERS PRODUCTION REVENUE FUND, LLP

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By _____
Stephen M. Thompson

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11 APPROVED AS TO FORM:

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13 DATED: ____ 1-30-12 ____

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By _____
Blaine A. Noblett
Senior Corporations Counsel
Enforcement Division

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16

17

18 DATED: ____ 1-27-12 ____

19

By _____
John Torbett, Jr.
Haney, Roderick, Torbett & Arnold, LLP
Attorneys for RESPONDENTS

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