

1 incorporated by reference is a true and correct copy of the Desist and Refrain Order dated June 12,
2 2018 (Order);

3 WHEREAS, on July 30, 2018, Fiverr, was served with the Order;

4 WHEREAS, on August 29, 2018, Fiverr, filed a written request to contest the Order;

5 WHEREAS, Fiverr hereby seeks to resolve the concerns of the Commissioner by entering
6 into this Stipulation regarding such Order; and

7 WHEREAS, the Commissioner finds that this action is appropriate in the public interest and
8 consistent with the purposes fairly intended by the policy and provisions of this law.

9 IT IS HEREBY STIPULATED AND AGREED between Fiverr and the Commissioner as
10 follows:

11 1. Purpose. This Settlement Agreement is entered into for the purposes of judicial
12 economy and expediency, to avoid the expense of a hearing and possible further court proceedings.

13 2. Finality of Order. Fiverr agrees and stipulates to the finality of the Order. Fiverr
14 acknowledges its right to an administrative hearing under the Escrow Law (Fin. Code §§ 17000 et
15 seq.) in connection with the Order and hereby waives that right to a hearing, and to any
16 reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the
17 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
18 provision of law in connection with these matters.

19 3. Settlement Agreement Coverage. The Parties hereby acknowledge and agree that this
20 Settlement Agreement is intended to constitute a full, final and complete resolution of the Order,
21 excepting therefrom any proceeding or action if such proceeding or action is based upon facts not
22 presently known to the Commissioner or which were knowingly concealed from the Commissioner
23 by Fiverr or is based upon failure by Fiverr to abide by any of the terms in this Settlement
24 Agreement or Order. The Parties further acknowledge and agree that nothing contained in this
25 Settlement Agreement shall operate to limit the Commissioner's ability to assist any other agency,
26 (city, county, state or federal) with any prosecution, administrative, civil or criminal, brought by any
27 such agency against Fiverr based upon any of the activities alleged in these matters or otherwise.

28 4. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it

1 has had an opportunity to seek independent advice from its attorney(s) and/or representatives with
2 respect to the advisability of executing this Settlement Agreement.

3 5. No Other Representation. Each of the Parties represents, warrants, and agrees that in
4 executing this Settlement Agreement it has relied solely on the statements set forth herein and has
5 had the opportunity to seek the legal advice of its own counsel. Each of the Parties further
6 represents, warrants, and agrees that in executing this Settlement Agreement it has placed no reliance
7 on any statement, representation, or promise of any other party, or any other person or entity not
8 expressly set forth herein, or upon the failure of any party or any other person or entity to make any
9 statement, representation or disclosure of anything whatsoever. The Parties have included this
10 clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this
11 Settlement Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret,
12 supplement, or contradict the terms of this Settlement Agreement.

13 6. Modifications and Qualified Integration. No amendment, change or modification of
14 this agreement shall be valid or binding to any extent unless it is in writing and signed by all of the
15 parties affected by it.

16 7. Full Integration. This Settlement Agreement is the final written expression and the
17 complete and exclusive statement of all the agreements, conditions, promises, representations, and
18 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or
19 contemporaneous agreements, negotiations, representations, understandings, and discussions
20 between and among the Parties, their respective representatives, and any other person or entity, with
21 respect to the subject matter covered hereby.

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

1 9. Voluntary Agreement. Fiverr enters into this Settlement Agreement voluntarily and
2 without coercion and acknowledges that no promises, threats or assurances have been made by the
3 Commissioner or any officer, or agent thereof, about this Settlement Agreement. The Parties each
4 represent and acknowledge that he, she or it is executing this Agreement completely voluntarily
5 and without any duress or undue influence of any kind from any source.

6 10. Authority For Settlement. Each party warrants and represents that such party is
7 fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and
8 without limiting the generality of the foregoing, each party warrants and represents that it is
9 fully entitled to enter into the covenants, and undertake the obligations set forth herein.

10 11. Waiver. The waiver of any provision of this Settlement Agreement shall not operate
11 to waive any other provision set forth herein, and any waiver, amendment and/or change to the terms
12 of this Settlement Agreement must be in writing and signed by the parties.

13 12. Counterparts. This Agreement may be executed in any number of counter-parts
14 by the Parties, and when each party has signed and delivered at least one such counterpart to the
15 other party, each counterpart shall be deemed an original and taken together shall constitute
16 one and the same Agreement.

17 13. Signatures. This Agreement may be executed by facsimile or scanned signature, and
18 any such facsimile or scanned signature by any party hereto shall be deemed to be an original
19 signature and shall be binding on such party to the same extent as if such facsimile or scanned
20 signature were an original signature.

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

23 15. Effective Date. This Settlement Agreement shall not become effective until signed by
24 all parties and delivered by the Commissioner’s counsel by email to counsel for Fiverr International
25 Ltd. at chrisdaniel@paulhastings.com.

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16. Capacity to Contract. Each signator hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement.

Dated: 4/16/19

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 4/11/19

FIVERR INTERNATIONAL LTD.

By _____
MICHA KAUFMAN
Chief Executive Officer

APPROVED AS TO FORM:

CHRIS DANIEL ESQ.
PAUL HASTINGS LLP
Counsel for Fiverr International Ltd.

JOHNNY O. VUONG
Counsel for Commissioner of Business Oversight