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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:

CRD NO.: 174870

13 THE COMMISSIONER OF BUSINESS
14 OVERSIGHT,

SETTLEMENT AGREEMENT

15 Complainant,

16 v.

17 BLOOMER BIOTECH INVESTMENT
18 ADVISORS, LLC, an entity,

19 Respondent.
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22 This Settlement Agreement is entered into between the Commissioner of Business Oversight
23 (Commissioner) of the Department of Business Oversight and Bloomer Biotech Investment
24 Advisors, LLC (Bloomer Biotech Investment), and is made with respect to the following facts:

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I.
RECITALS

A. The Commissioner has jurisdiction over the licensing and regulation of persons engaged in the business of investment advising under the Corporate Securities Law of 1968 (Corp. Code, § 25000 et seq.).

B. Bloomer Biotech Investment was issued an investment adviser certificate by the Commissioner on November 30, 2015, pursuant to Corporations Code section 25230. Bloomer Biotech Investment is an investment adviser business located at 7 Lexington Avenue, Ste. 12E, New York, New York 10010. Bloomer Biotech Investment is a Connecticut limited liability company.

C. Corporations Code section 25241 requires every investment adviser licensed by the Commissioner to maintain books and records, file reports with the Commissioner, and submit to examination by the Commissioner, as the Commissioner deems necessary or appropriate in the public interest or for the protection of investors.

D. On or about March 14 and March 22, 2018, the Commissioner notified Bloomer Biotech Investment that Bloomer Biotech Investment must designate an email address to receive an online examination form. In response to the Commissioner’s notification, Bloomer Biotech Investment designated an email address to receive the online examination form.

E. On or about October 1, 2018, the Commissioner sent the online examination to Bloomer Biotech Investment to the email address designated by Bloomer Biotech Investment. The Commissioner informed Bloomer Biotech Investment that the online examination must be completed and submitted by November 16, 2018.

F. The Commissioner sent five notices, dated October 15, 2018, October 26, 2018, November 5, 2018, November 12, 2018, and December 5, 2018 reminding Bloomer Biotech Investment of the November 16, 2018 deadline to complete and submit the online examination.

G. Despite the Commissioner’s efforts, Bloomer Biotech Investment failed to timely complete and submit the online examination by the November 16, 2018 deadline.

H. Thus, on March 29, 2019, the Commissioner issued an order summarily revoking Bloomer Biotech Investment’s investment adviser certificate (Order Summarily Revoking).

1 I. Bloomer Biotech Investment timely requested a hearing on the Order Summarily
2 Revoking.

3 J. On April 12, 2019, Bloomer Biotech Investment submitted the online examination.

4 K. The Commissioner finds that entering into this Settlement Agreement is necessary, in
5 the public interest, for the protection of investors and consistent with the purposes, policies, and
6 provisions of the Corporate Securities Law of 1968.

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

9 **II.**

10 **TERMS AND CONDITIONS**

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

13 2. Waiver of Hearing Rights. Bloomer Biotech Investment hereby withdraws its request
14 for an administrative hearing on the Order Summarily Revoking. Bloomer Biotech Investment
15 acknowledges its right under the Corporate Securities Law of 1968 to an administrative hearing on
16 the Order Summarily Revoking and hereby waives such right to a hearing and to any
17 reconsideration, appeal, injunction or other review that may be afforded under the Corporations
18 Code; Administrative Procedure Act, including Government Code section 11415.60, subdivision (b);
19 Code of Civil Procedure; or any other provision of law. By waiving such rights, Bloomer Biotech
20 Investment effectively consents to the finality of the Order Summarily Revoking.

21 3. Rescinding of Order Summarily Revoking. The Commissioner hereby rescinds the
22 Order Summarily Revoking issued on March 29, 2019.

23 4. Administrative Penalty. Bloomer Biotech Investment shall pay an administrative
24 penalty of \$2,500.00 no later than 30 days after the effective date of this Settlement Agreement as
25 defined in paragraph 17. The penalty must be made payable in the form of a cashier's check or
26 Automated Clearing House deposit to the Department of Business Oversight and transmitted to the
27 attention of Accounting – Litigation, at the Department of Business Oversight, 1515 K Street, Suite
28 200, Sacramento, California 95814. Notice of the payment must be concurrently sent to: Marlou de

1 Luna, Senior Counsel, Department of Business Oversight, 320 West 4th Street, Suite 750, Los
2 Angeles, California 90013.

3 5. Failure to Pay Administrative Penalty. If Bloomer Biotech Investment fails to comply
4 with paragraph 4, the Commissioner may summarily suspend Bloomer Biotech Investment from
5 engaging in business under its investment adviser certificate until it provides evidence of compliance
6 to the Commissioner's satisfaction. Further, if Bloomer Biotech Investment fails to comply with
7 paragraph 4, Bloomer Biotech Investment shall pay to the Commissioner an administrative penalty
8 of \$5,000.00. Bloomer Biotech Investment hereby waives any notice or hearing rights afforded
9 under the Administrative Procedure Act, including Government Code section 11415.60, subdivision
10 (b); Code of Civil Procedure; or any other provision of law to contest the summary suspension and
11 administrative penalty of \$5,000.00 contemplated by this paragraph.

12 6. Full and Final Resolution. Except as stated in paragraph 5, this Settlement Agreement
13 is intended to constitute a full and final resolution of the matter described in it. The Commissioner
14 will not bring any further action or proceeding concerning the matter unless the Commissioner
15 discovers violations by Bloomer Biotech Investment that do not form the basis for this Settlement
16 Agreement, including violations knowingly concealed from the Commissioner.

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

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

24 9. Reliance. Each of the parties represents, warrants, and agrees that in executing this
25 Settlement Agreement it has relied solely on the statement set forth herein and has had the
26 opportunity to seek the legal advice of its own counsel. Each of the parties further represents,
27 warrants, and agrees that in executing this Settlement Agreement it has placed no reliance on any
28 statement, representation, or promise of any other party, or any other person or entity not expressly

1 set forth herein, or upon the failure of any party or any other person or entity to make any statement,
2 representation, or disclosure of anything whatsoever. The parties have included this clause: (1) to
3 preclude any claim that any party was in any way fraudulently induced to execute this Settlement
4 Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or
5 contradict the terms of this Settlement Agreement.

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

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

21 12. Voluntary Agreement. Bloomer Biotech Investment hereby enters in this Settlement
22 Agreement voluntarily and without coercion and acknowledges that no promises, threats, or
23 assurances have been made by the Commissioner or any officer, or agent thereof, about this
24 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. Bloomer Biotech Investment 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 Bloomer Biotech Investment by electronic mail at CB@Bloomerbiotech.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: May 28, 2019

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Enforcement Division
Department of Business Oversight

Dated: May 16, 2019

BLOOMER BIOTECH INVESTMENT ADVISORS, LLC

By _____
CAMERON BLOOMER
Managing Member