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

11 In the Matter of: ) ESCROW LICENSE NO.: 963-1390  
12 THE COMMISSIONER OF BUSINESS ) SETTLEMENT AGREEMENT  
13 OVERSIGHT, )  
14 Complainant, )  
15 v. )  
16 ATLANTIC ESCROW CORPORATION, )  
17 Respondent. )  
18 )  
19 )

20  
21 This Settlement Agreement is entered into between the Commissioner of Business Oversight  
22 (Complainant or Commissioner) and Atlantic Escrow Corporation (Atlantic) and is made with  
23 respect to the following facts:

24 **I.**

25 **RECITALS**

26 A. The Commissioner has jurisdiction over the licensing and regulation of persons and  
27 entities engaged in the business of an escrow agent under the Escrow Law (Fin. Code, § 17000 *et*  
28 *seq.*).

1           B.       Atlantic is a corporation with a principal place of business at 2500 East Colorado  
2 Boulevard, Suite 250, Pasadena, California 91107.

3           C.       Atlantic is licensed as an escrow agent under the Escrow Law with license number  
4 963-1390.

5           D.       On January 17, 2019, Atlantic submitted to the Department of Business Oversight  
6 (Department) its 2018 Escrow Liability Report. A review of the 2018 Escrow Liability Report  
7 disclosed that Atlantic did not maintain adequate fidelity bond coverage and a separate surety bond  
8 for its fidelity deductible pursuant to Financial Code section 17203.1 and California Code of  
9 Regulations, title 10, section 1723.

10          E.       On or around April 5, 2019, the Department notified Atlantic of its fidelity bond  
11 deficiency and requested proof of (1) sufficient fidelity bond coverage and (2) corresponding surety  
12 bond coverage in the same amount as the fidelity bond deductible, pursuant to California Code of  
13 Regulations, title 10, section 1723, subdivisions (a) and (c). Atlantic was given 30 days to respond  
14 with proof.

15          F.       On or around May 5, 2019, the Department received Atlantic’s response but no proof  
16 of correction of the fidelity bond deficiency.

17          G.       On or around May 9, 2019, the Department issued a 10-Day Demand giving Atlantic  
18 until May 20, 2019 to provide proof of the correction of the fidelity bond deficiency or else the  
19 matter could be referred for administrative action, including suspension or revocation. Atlantic did  
20 not respond by the deadline of May 20, 2019.

21          H.       On June 25, 2019, the Department issued the Order to Discontinue Escrow Activities  
22 Pursuant to California Financial Code Section 17415 (Order to Discontinue Escrow), finding that  
23 Atlantic failed to comply with the bonding requirements under California Code of Regulations, title  
24 10, section 1723.

25          I.       On or around July 3, 2019, Atlantic submitted to the Department its Notice of  
26 Defense and Request for Hearing.

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1 J. The Commissioner finds that entering into this Settlement Agreement is in the public  
2 interest and consistent with the purposes fairly intended by the policies and provisions of the Escrow  
3 Law.

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

6 **II.**

7 **TERMS AND CONDITIONS**

8 1. Purpose. This Settlement Agreement resolves the issues before the Commissioner set  
9 forth in Paragraphs A through J above in a manner that avoids the expense of a hearing and other  
10 possible court proceedings, protects consumers, is in the public interest, and is consistent with the  
11 purposes, policies, and provisions of the Escrow Law.

12 2. Amended Order to Discontinue Escrow Activities. The Commissioner hereby issues  
13 the Amended Order to Discontinue Escrow Activities Pursuant to Financial Code Section 17415  
14 (Amended Order), which is attached hereto as Exhibit A. As stated therein, the Amended Order  
15 amends and supersedes the Order to Discontinue Escrow and shall remain in full force and effect  
16 until 5:00 p.m. PST on August 25, 2019.

17 3. Order to Discontinue Violations. Atlantic hereby agrees that in accordance with  
18 Financial Code section 17602, it will immediately discontinue violating California Code of  
19 Regulations, title 10, section 1723.

20 4. Waiver of Hearing Rights. Atlantic hereby withdraws its Notice of Defense and  
21 Request for Hearing submitted on or around July 3, 2019. Atlantic acknowledges the Commissioner  
22 is ready, willing, and able to proceed with the administrative enforcement actions described herein,  
23 and Atlantic hereby waives the right to a hearing, and to any reconsideration, appeal, or other right to  
24 review which may be afforded pursuant to the Escrow Law, the California Administrative Procedure  
25 Act, the California Code of Civil Procedure, or any other provision of law; and by waiving such  
26 rights, Atlantic effectively consents to this Settlement Agreement becoming final.

27 5. Full and Final Settlement. The parties hereby acknowledge and agree that this  
28 Settlement Agreement is intended to constitute a full, final, and complete resolution of the violations

1 described herein, and that no further proceedings or actions will be brought by the Commissioner in  
2 connection with these matters under the Escrow Law or any other provision of law, excepting  
3 therefrom any proceeding to enforce compliance with the terms of this Settlement Agreement.

4 6. Failure to Comply with Settlement Agreement. Atlantic agrees that if it fails to  
5 comply with the terms of this Settlement Agreement, the Commissioner may, in addition to all other  
6 available remedies it may invoke under the Escrow Law, summarily suspend or revoke Atlantic's  
7 escrow agents license until Atlantic is in compliance. Atlantic waives any notice and hearing rights  
8 to contest such summary suspensions or revocations which may be afforded under the Escrow Law,  
9 the California Administrative Procedure Act, the California Code of Civil Procedure, or any other  
10 provision of law in connection therewith.

11 7. Information Willfully Withheld or Misrepresented. This Settlement Agreement may  
12 be revoked and the Commissioner may pursue any and all remedies available under law against  
13 Atlantic if the Commissioner discovers that Atlantic knowingly or willfully withheld or  
14 misrepresented information used for and relied upon in this Settlement Agreement.

15 8. Future Actions by Commissioner. If Atlantic fails to comply with any terms of the  
16 Settlement Agreement, the Commissioner may institute proceedings for any and all violations  
17 otherwise resolved under this Settlement Agreement. The Commissioner reserves the right to bring  
18 any future actions against Atlantic, or any of its partners, owners, officers, shareholders, directors,  
19 employees or successors for any and all unknown violations of the Escrow Law.

20 9. Assisting Other Agencies. Nothing in this Settlement Agreement limits the  
21 Commissioner's ability to assist any other government agency (city, county, state, or federal) with  
22 any prosecution, administrative, civil or criminal brought by that agency against Atlantic or any  
23 other person based upon any of the activities alleged in this matter or otherwise.

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

27 11. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or  
28 successors in interest.

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

10           13.    No Presumption Against Drafting Party. Each party acknowledges that it has had the  
11 opportunity to draft, review, and edit the language of this Settlement Agreement. Accordingly, the  
12 parties intend that no presumption for or against the drafting party will apply in construing any part  
13 of this Settlement Agreement. The parties waive the benefit of Civil Code section 1654 as amended  
14 or corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
15 language of a contract should be interpreted most strongly against the party that caused the  
16 uncertainty to exist.

17           14.    Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
18 has received independent advice from its attorney(s) and/or representatives with respect to the  
19 advisability of executing this Settlement Agreement.

20           15.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
21 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the  
22 parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of  
23 any other provision. No waiver by either party of any breach of, or of compliance with, any  
24 condition or provision of this Settlement Agreement by the other party will be considered a waiver  
25 of any other condition or provision or of the same condition or provision at another time.

26           16.    Full Integration. This Settlement Agreement is the final written expression and the  
27 complete and exclusive statement of all the agreements, conditions, promises, representations, and  
28 covenant between the parties with respect to the subject matter hereof, and supersedes all prior or

1 contemporaneous agreements, negotiations, representations, understandings, and discussions  
2 between and among the parties, their respective representatives, and any other person or entity, with  
3 respect to the subject matter covered hereby.

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

6 18. Counterparts. This Settlement Agreement may be executed in one or more separate  
7 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
8 together constitute a single document.

9 19. Effect Upon Future Proceedings. If Atlantic applies for any license, permit or  
10 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future  
11 action by the Commissioner to enforce this Settlement Agreement, then the subject matter hereof  
12 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

13 20. Voluntary Agreement. Atlantic enters into this Settlement Agreement voluntarily and  
14 without coercion and acknowledges that no promises, threats or assurances have been made by the  
15 Commissioner or any officer, or agent thereof, about this Settlement Agreement. The parties each  
16 represent and acknowledge that he, she or it is executing this Settlement Agreement completely  
17 voluntarily and without any duress or undue influence of any kind from any source.

18 21. Notice. Any notice required under this Settlement Agreement shall be provided to  
19 each party at the following addresses:

20 To Atlantic:

21 Matthew S. Davis, Davis & Davis Law Group, APC, 1900 Avenue of the Stars,  
22 Suite 960, Los Angeles, California 90067, mdavis@ddesq.com.

23 To the Commissioner:

24 Sophia C. Kim, Senior Counsel, Enforcement Division, Department of Business  
25 Oversight, 320 West 4<sup>th</sup> Street, Suite 750, Los Angeles, California 90013,  
26 Sophia.Kim@dbo.ca.gov.

27 22. Signatures. A fax or electronic mail signature shall be deemed the same as an  
28 original signature.

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23. Public Record. Atlantic hereby acknowledges that this Settlement Agreement is and will be a matter of public record.

24. Effective Date. This Settlement Agreement shall become final and effective when signed by all parties and delivered by the Commissioner’s agent via e-mail to Atlantic at mdavis@ddesq.com.

25. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the obligations set forth herein.

Dated: 7/16/19

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division

Dated: 7/15/19

ATLANTIC ESCROW CORPORATION

By \_\_\_\_\_  
LINDA TANG  
President