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

11 In the Matter of:) OAH CASE NO.: 2019080465
12)
13 THE COMMISSIONER OF BUSINESS) AGENCY CASE NO.: 60DBO-90308
14 OVERSIGHT,) CFL LICENSE NO.: 60DBO-90308
15)
16 Complainant,)
17 v.) SETTLEMENT AGREEMENT
18)
19 L.M.J. ROC, LLC,) HEARING DATE: September 6, 2019
20) LOCATION: 320 West 4th Street
21) Suite 630
22 Respondent.) Los Angeles, CA 90013
23) TIME: 9:00 a.m.
24)

21 This Settlement Agreement is entered into between the Commissioner of Business Oversight
22 (Commissioner) and Respondent L.M.J. ROC, LLC (L.M.J. ROC) and is made with respect to the
23 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 finance lending or brokering under the California Financing Law
28 (CFL) (Fin. Code, § 22000 et seq.).

1 B. L.M.J. ROC is a limited liability company, with a principal place of business located
2 at 10124 Empyrean Way, Suite 303, Los Angeles, California 90067.

3 C. L.M.J. ROC is licensed as a finance lender under the CFL main license number
4 60DBO-90308.

5 D. L.M.J. ROC operates one main branch in California.

6 E. In accordance with Financial Code section 22159, CFL licensees must file an annual
7 report with the Commissioner by March 15 of each year (Annual Report).

8 F. On January 2, 2019, the Commissioner notified CFL licensees of the March 15, 2019
9 deadline to file their annual reports by sending notice to the email address of each CFL licensee
10 established pursuant to the Commissioner's Order on Electronic Communications, dated November
11 22, 2013. The notification admonished licensees that the Commissioner could assess penalties and
12 summarily revoke CFL license(s) for untimely filing or failing to file pursuant to Financial Code
13 section 22715.

14 G. On February 1, 2019, the Commissioner again notified CFL licensees of the March
15 15, 2019 deadline to file their annual reports by sending notice to the email address each CFL
16 licensee established pursuant to the Commissioner's Order on Electronic Communications, dated
17 November 22, 2013. The notification again warned that the Commissioner could assess penalties and
18 summarily revoke licenses for untimely filing or failing to file pursuant to Financial Code section
19 22715.

20 H. On March 5, 2019, the Commissioner again notified CFL licensees of the March 15,
21 2019 deadline to file their annual reports by sending notice to the email address each CFL licensee
22 established pursuant to the Commissioner's Order on Electronic Communications, dated November
23 22, 2013. The notification again warned that the Commissioner could assess penalties and
24 summarily revoke licenses for untimely filing or failing to file pursuant to Financial Code section
25 22715.

26 I. As of March 15, 2019, L.M.J. ROC had not filed its Annual Report with the
27 Commissioner. As a result, the Commissioner issued a notice on March 18, 2019 to L.M.J. ROC to
28 the email address established pursuant to the Commissioner's Order on Electronic Communications,

1 dated November 22, 2013, advising L.M.J. ROC that it should file its annual report by or before
2 March 29, 2019 or else its license would be summarily revoked pursuant to Financial Code section
3 22715 (Notice email).

4 J. As of March 29, 2019, L.M.J. ROC had not filed its Annual Report with the
5 Commissioner as directed in the Notice Letter. As a result, on April 3, 2019, the Commissioner
6 issued an Order Summarily Revoking California Finance Lenders License Pursuant to Financial
7 Code Section 22715 for CFL License Number 60DBO-90308 (Summary Revocation Order).

8 K. Upon receiving the Summary Revocation Order, L.M.J. ROC timely requested a
9 hearing on the Summary Revocation Order.

10 L. On August 15, 2019, L.M.J. ROC submitted its Annual Report, which was due on
11 March 15, 2019, 106 business days late. Pursuant to Financial Code Section 22715, the maximum
12 penalty that may be imposed for filing 106 business days late is \$25,000.00 (\$100.00 per business
13 day for the first five business days and \$500.00 per business day thereafter up to a maximum of
14 \$25,000.00).

15 M. In connection with these proceedings, L.M.J. ROC represented to the Commissioner
16 that it had taken no new applications under its license.

17 N. The Commissioner finds that entering into this Settlement Agreement is in the public
18 interest and consistent with the purposes fairly intended by the policies and provisions of the CFL.

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

21 **II.**

22 **TERMS AND CONDITIONS**

23 1. Purpose. This Settlement Agreement resolves the issues before the Commissioner
24 findings set forth in paragraphs A - N above in a manner that avoids the expense of a hearing and
25 other possible court proceedings, protects consumers, is in the public interest, and is consistent with
26 the purposes, policies, and provisions of the CFL.

27 2. Order Rescinding Revocation Order. The Commissioner hereby rescinds the
28 Summary Revocation Order, which had been issued against L.M.J. ROC on April 3, 2019.

1 3. Administrative Penalty. L.M.J. ROC shall pay an administrative penalty of \$1,500.00
2 no later than 30 days after the effective date of this Settlement Agreement as defined in paragraph
3 25. The penalty must be made payable in the form of a cashier’s check or Automated Clearing
4 House deposit to the Department of Business Oversight and transmitted to the attention of
5 Accounting – Litigation, at the Department of Business Oversight, 1515 K Street, Suite 200,
6 Sacramento, California 95814. Notice of the payment must be concurrently sent to Vanessa T. Lu,
7 Counsel, Department of Business Oversight, 1350 Front Street, Room 2034, San Diego, California
8 92101.

9 4. Failure to Pay Administrative Penalty. If L.M.J. ROC fails to comply with paragraph
10 3, the Commissioner may summarily suspend it from engaging in business under its license until it
11 provides evidence of compliance to the Commissioner’s satisfaction. L.M.J. ROC hereby waives
12 any notice or hearing rights afforded under the Administrative Procedure Act, including Government
13 Code section 11415.60, subdivision (b); Code of Civil Procedure; or any other provision of law to
14 contest the summary suspension contemplated by this paragraph.

15 5. Waiver of Hearing Rights. L.M.J. ROC acknowledges the Commissioner is ready,
16 willing, and able to proceed with the filing of an administrative enforcement action on the charges
17 contained in this Settlement Agreement. L.M.J. ROC hereby waives the right to any hearings, and to
18 any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
19 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
20 provision of law. L.M.J. ROC further expressly waives any requirement for the filing of an
21 Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such
22 rights, L.M.J. ROC effectively consents to this Settlement Agreement and Order Rescinding
23 Revocation Order becoming final.

24 6. Full and Final Settlement. The parties hereby acknowledge and agree that this
25 Settlement Agreement is intended to constitute a full, final, and complete resolution of the violations
26 described herein, and that no further proceedings or actions will be brought by the Commissioner in
27 connection with these matters except under the CFL or any other provision of law, excepting
28 therefrom any proceeding to enforce compliance with the terms of this Settlement Agreement.

1 7. Failure to Comply with Settlement Agreement. L.M.J. ROC agrees that if it fails to
2 comply with the terms of this Settlement Agreement, the Commissioner may, in addition to all other
3 available remedies it may invoke under the CFL, summarily suspend/revoke the CFL license of
4 L.M.J. ROC until L.M.J. ROC is in compliance. L.M.J. ROC waives any notice and hearing rights
5 to contest such summary suspensions/revocations which may be afforded under the CFL, the
6 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
7 provision of law in connection therewith.

8 8. Information Willfully Withheld or Misrepresented. This Settlement Agreement may
9 be revoked and the Commissioner may pursue any and all remedies available under law against
10 L.M.J. ROC if the Commissioner discovers that L.M.J. ROC knowingly or willfully withheld or
11 misrepresented information used for and relied upon in this Settlement Agreement.

12 9. Future Actions by Commissioner. If L.M.J. ROC fails to comply with any terms of
13 the Settlement Agreement, the Commissioner may institute proceedings for any and all violations
14 otherwise resolved under this Settlement Agreement. The Commissioner reserves the right to bring
15 any future actions against L.M.J. ROC, or any of its partners, owners, officers, shareholders,
16 directors, employees or successors for any and all unknown violations of the CFL.

17 10. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
18 Commissioner's ability to assist any other government agency (city, county, state, or federal) with
19 any prosecution, administrative, civil or criminal brought by that agency against L.M.J. ROC or any
20 other person based upon any of the activities alleged in this matter or otherwise.

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

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

4 13. Headings. The headings to the paragraphs of this Settlement Agreement are inserted
5 for convenience only and will not be deemed a part hereof or affect the construction or interpretation
6 of the provisions hereof.

7 14. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or
8 successors in interest.

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

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

24 17. Full Integration. This Settlement Agreement is the final written expression and the
25 complete and exclusive statement of all the agreements, conditions, promises, representations, and
26 covenant between the parties with respect to the subject matter hereof, and supersedes all prior or
27 contemporaneous agreements, negotiations, representations, understandings, and discussions
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1 between and among the parties, their respective representatives, and any other person or entity, with
2 respect to the subject matter covered hereby.

3 18. Governing Law. This Settlement Agreement will be governed by and construed in
4 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court,
5 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
6 forum to the maintenance of such action or proceeding in such court.

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

10 20. Effect Upon Future Proceedings. If L.M.J. ROC apply for any license, permit or
11 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future
12 action by the Commissioner to enforce this Settlement Agreement, then the subject matter hereof
13 shall be admitted for the purpose of such application(s) or enforcement proceedings(s).

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

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

21 To: L.M.J. ROC, LLC
22 c/o Marvin Jacobs, President
23 10124 Empyrean Way, Suite 303
24 Los Angeles, California 90067
25 Marvinsjacobs47@gmail.com

26 To the Commissioner: Vanessa T. Lu, Counsel
27 Department of Business Oversight
28 1350 Front Street, Room 2034
San Diego, California 92101
Vanessa.Lu@dbo.ca.gov

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

24. Public Record. L.M.J. ROC hereby acknowledges that this Settlement Agreement is and will be a matter of public record.

25. 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 L.M.J. ROC at marvinsjacobs47@gmail.com.

26. 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: 8/28/19

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 8/27/19

L.M.J. ROC, LLC

By _____
MARVIN JACOBS
President