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2 DANIEL P. O'DONNELL
Assistant Chief Counsel
3 JOANNE ROSS (State Bar No. 202338)
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4 Department of Business Oversight
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8 Attorneys for Complainant

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

12 In the Matter of:) OAH No.: 2019070983
)
13 THE COMMISSIONER OF BUSINESS) CRMLA License No: 41DBO-41787
OVERSIGHT,)
14)
15 Complainant,) SETTLEMENT AGREEMENT
)
16 v.)
) Date: November 6 and 7, 2019
17 COASTALSTATES MORTGAGE, INC.,) Time: 9:00 a.m.
) Place: Office of Administrative Hearings
18 Respondent.) 2349 Gateway Oaks Drive, Suite 200
) Sacramento, California 95833
19)

20
21 The Commissioner of Business Oversight (Commissioner) and CoastalStates Mortgage, Inc.
22 (CSM), (collectively, the Parties), enter into this Settlement Agreement with respect to the following
23 facts:

24 RECITALS

- 25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities
26 engaged in the business of lending and servicing residential mortgage loans pursuant to the
27 California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.)
28 B. CoastalStates Mortgage, Inc. (CSM) is a residential mortgage lender licensed by the

1 Commissioner (CRMLA License No. 41DBO-41787), pursuant to the California Residential
2 Mortgage Lending Act (CRMLA) as set forth in Financial Code section 50000 et seq. CSM has its
3 principal place of business at 5 Bow Circle, Hilton Head, South Carolina 29928.

4 B. Richard Spiehs is the Chief Executive Officer and a control person of CSM and, as such, is
5 authorized to enter this Settlement Agreement on CSM's behalf.

6 C. CSM stopped doing business in California prior to 2017, but did not notify the Commissioner or
7 file the documents to surrender its license.

8 D. On May 20, 2019, the Commissioner issued an Accusation to Revoke Residential Mortgage
9 Lending License Pursuant to Financial Code Section 50327, Subdivision (a)(1) to CSM for the following
10 violations:

11 i. Failing to file all required Quarterly Mortgage Call Reports for 2017 and 2018 in
12 violation of Financial Code section 50307.2 and California Code of Regulations, title 10, section
13 1950.307, subdivision (a).

14 ii. Failing to file Annual Reports for 2017 and 2018 as required by Financial Code
15 section 50307, subdivision (a).

16 iii. Failing to submit Audited Financial Statements for fiscal years 2017 and 2018 in
17 violation of Financial Code section 50200.

18 iv. Failing to maintain an active surety bond in violation of Financial Code section
19 50205, subdivision (a).

20 E. On June 17, 2019, CSM requested an administrative hearing to contest the Accusation and the
21 administrative hearing was set before the Office of Administrative Hearings and is scheduled to
22 commence in Sacramento on November 6 and 7, 2019.

23 F. Between July 23, 2019 and August 28, 2019, CSM provided the required MCR's, Annual
24 Reports, and Audited Financial Statements to the Commissioner.

25 G. CSM admits to the jurisdiction of the Department of Business Oversight (Department) and it
26 is the intention of the Parties to resolve this matter without the necessity of a hearing and/or other
27 litigation.

28 H. CSM neither admits nor denies the underlying allegations.

1 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
2 forth herein, the Parties agree as follows:

3 TERMS

4 1. Purpose: This Settlement Agreement resolves the issues before the Commissioner described
5 above in a manner that avoids the expense of a hearing and other possible court proceedings,
6 protects consumers, is in the public interest, and is consistent with the purposes and provisions of the
7 CRMLA.

8 2. Surrender of License: In accordance with Financial Code section 50123, CSM will surrender
9 its CRMLA license within 5 business days of the Effective Date of this Settlement Agreement.

10 3. Penalties: CSM shall pay penalties in the amount of \$8,000 for the violations of the CRMLA
11 enumerated herein. The penalties shall be paid within 30 calendar days of the Effective Date of this
12 Settlement Agreement.

13 All penalties shall be made payable in the form of a cashier's check or Automated Clearing
14 House deposit to the Department of Business Oversight and mailed to the attention of:

15 Accounting-Litigation
16 Department of Business Oversight
17 1515 K Street, Suite 200
18 Sacramento, California 95814

19 Notice of payment shall be made via email to Joanne Ross, Senior Counsel at Department of
20 Business Oversight, joanne.ross@dbo.ca.gov.

21 4. Waiver of Hearing Rights: CSM acknowledges that the Commissioner is ready, willing, and
22 able to proceed with the administrative enforcement action described above. CSM hereby waives the
23 right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded
24 pursuant to the CRMLA, the California Administrative Procedure Act, the California Code of Civil
25 Procedure, or any other provision of law. By waiving such rights, CSM effectively consents to this
26 Settlement Agreement becoming final.

27 5. Failure to Comply with Settlement Agreement: CSM agrees that if it fails to comply with the
28 terms of this Settlement Agreement, the Commissioner may, in addition to all other available remedies
it may invoke under the CRMLA, summarily revoke the CRMLA licenses of CSM until CSM is in

1 compliance. CSM waives any notice and hearing rights to contest such summary revocation which
2 may be afforded under the CRMLA, the California Administrative Procedure Act, the California Code
3 of Civil Procedure, or any other provision of law in connection therewith.

4 6. Information Willfully Withheld or Misrepresented: This Settlement Agreement may be
5 revoked and the Commissioner may pursue any and all remedies available under law against CSM if
6 the Commissioner discovers that CSM knowingly or willfully withheld or misrepresented information
7 used for and relied upon in this Settlement Agreement.

8 7. Future Actions by Commissioner: If CSM fails to comply with any terms of the Settlement
9 Agreement, the Commissioner may institute proceedings for any and all violations otherwise
10 resolved under this Settlement Agreement. The Commissioner reserves the right to bring any future
11 actions against CSM, or any of its partners, owners, officers, shareholders, directors, employees or
12 successors for any and all unknown violations of the CRMLA.

13 8. Assisting Other Agencies: Nothing in this Settlement Agreement limits the Commissioner's
14 ability to assist a government agency (city, county, state, or federal) with any administrative, civil or
15 criminal action brought by that agency against CSM or any other person based upon any of the
16 activities alleged in this matter or otherwise.

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

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

23 11. Binding: This Settlement Agreement is binding on all heirs, assigns, and/or successors in
24 interest.

25 12. Reliance: Each of the Parties represents, warrants, and agrees that in executing this Settlement
26 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel.
27 Each of the Parties further represents, warrants, and agrees that in executing this Settlement
28 Agreement it has placed no reliance on any statement, representation, or promise of any other party,

1 or any other person or entity not expressly set forth herein, or upon the failure of any party or any
2 other person or entity to make any statement, representation or disclosure of anything whatsoever.

3 The Parties have included this clause: (1) to preclude any claim that any party was in any way
4 fraudulently induced to execute this Settlement Agreement; and (2) to preclude the introduction of
5 parol evidence to vary, interpret, supplement, or contradict the terms of this Settlement Agreement.

6 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of this
7 Settlement Agreement will be valid or binding unless it is in writing and signed by each of the Parties.
8 The waiver of any provision of this Settlement Agreement will not be deemed a waiver of any other
9 provision. No waiver by either party of any breach of, or of compliance with, any condition or
10 provision of this Settlement Agreement by the other party will be considered a waiver of any other
11 condition or provision or of the same condition or provision at another time.

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

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

25 16. Governing Law: This Settlement Agreement will be governed by and construed in
26 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,
27 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
28 forum to the maintenance of such action or proceeding in such court

1 17. Counterparts: This Settlement Agreement may be executed in one or more separate
2 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
3 together constitute a single document.

4 18. Terms, Headings and Governing Law: All terms used, but not defined herein, shall have the
5 meaning assigned to them by the California Residential Mortgage Lending Act. The headings to the
6 paragraphs of this Settlement Agreement are inserted for convenience only and will not be deemed a
7 part hereof or affect the construction or interpretation of the provisions hereof. This Settlement
8 Agreement shall be construed and enforced in accordance with, and governed by, the laws of the
9 State of California.

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

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

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

21 To CoastalStates Mortgage, Inc.:
22 Lisa M. Lanham
23 Alston & Bird
24 90 Park Avenue
25 New York, New York 10016
Lisa.lanham@alston.com

26 and

27 ///

28 ///

1 Steve Stone
2 CoastalStates Mortgage, Inc.
3 5 Bow Circle
4 Hilton Head Island, SC 29928
5 sstone@coastalstatesbank.com

To the Commissioner:

6 Joanne Ross, Senior Counsel
7 Department of Business Oversight
8 Enforcement Division
9 1515 K Street, Suite 200
10 Sacramento, California 95814
11 Joanne.ross@dbo.ca.gov

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

14 23. Public Record: CSM hereby acknowledges that this Settlement Agreement is and will be a
15 matter of public record.

16 24. Effective Date: This Settlement Agreement shall become final and effective when signed by
17 all Parties and delivered by the Commissioner's agent via e-mail to CSM's counsel at
18 lisa.lanham@alston.com.

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

4 Dated: September 27, 2019

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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By _____

7

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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11 Dated: September 26, 2019

By _____
COASTALSTATES MORTGAGE, INC.
Richard Spiels
Chief Executive Officer

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13

14 APPROVED AS TO FORM AND CONTENT

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16 Dated: September 26, 2019

By _____
Lisa Lanham
Alston & Bird

17

18

19

By _____

20

Kelley Barnaby
Alston & Bird

21

Counsel for COASTAL STATES MORTGAGE,
INC.

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