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

12 In the Matter of:)
13)
14 THE COMMISSIONER OF BUSINESS) STATEMENT IN SUPPORT OF ORDER
OVERSIGHT,) LEVYING ADMINISTRATIVE PENALTIES
15) PURSUANT TO CORPORATIONS CODE
Complainant,) SECTION 25252 AND 25233
16)
v.)
17)
18 CONESTOGA SETTLEMENT SERVICES,)
LLC, CONESTOGA INTERNATIONAL, LLC,)
19 AND MICHAEL C. MCDERMOTT,)
Respondents.)
20)

21
22 Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), brings this
23 action in the public interest and alleges and charges as follows:

24 I.
25 Statement of Facts

26 1. At all relevant times Conestoga Settlement Services, LLC is and was a Delaware limited
27 liability company conducting business at 1455 Pennsylvania Avenue, Suite 400, Washington, DC
28 20004.

1 2. At all relevant times Conestoga International, LLC is and was a Puerto Rican limited liability
2 company conducting business at 644 Avenue Fernandez Juncos, Suite 301, San Juan, Puerto Rico
3 00907.

4 3. At all relevant times Michael C. McDermott is and was the sole manager and control person
5 of both limited liability companies.

6 4. Conestoga Settlement Services, LLC, Conestoga International, LLC, and Michael McDermott
7 shall be collectively referred to as “Conestoga”.

8 5. Beginning at least as early as 2013 to the present date, Conestoga engaged in the business of
9 offering and selling securities in California in the form of life settlement contracts, an agreement for
10 the sale of an existing life insurance policy by its owner for more than its cash surrender, but less than
11 its net death benefit.

12 6. The DBO has not issued a permit or other form of qualification authorizing Conestoga to offer
13 or sell the above-described securities in this state, nor is the offering exempt from qualification
14 requirements.

15 7. Beginning in at least as early as 2013 to the present date, Conestoga paid sales agents
16 commissions to offer and sell its life settlement contracts in California. Conestoga was not licensed as
17 a broker-dealer nor were its sales agents authorized to sell securities in California.

18 8. On February 6, 2013, the California Department of Business Oversight (DBO) issued a Desist
19 and Refrain Order against Conestoga for violations of Corporations Code sections 25401 and 25210.
20 On February 12, 2013, Conestoga entered into a Stipulation to the Desist and Refrain Order.

21 9. Shortly after stipulating to the DBO’s Order, Conestoga violated it by continuing to offer and
22 sell securities in the form of life settlement contracts in California. Specifically, Conestoga sold
23 \$43,043.80 worth of life settlement contracts to one California investor beginning on May 1, 2013;
24 and sold \$177,790.14 to another California investor beginning on November 25, 2013.

25 10. In connection with the offers and sales of life settlement contracts to California investors,
26 Conestoga and its agents made the following untrue statements of material facts:

- 27 a. Conestoga told investors it used industry experience and medical experts to identify
28 insureds that would likely die on or before their policy maturity date, which would

1 maximize profits. Conestoga’s agents told one California investor that most of the
 2 policies would mature within five years and that the expected returns would be from 11-
 3 20%. Conestoga’s agents told another investor that they could expect returns of 20-30%
 4 on their investment.

- 5 b. Conestoga claimed it could protect investors by assigning them fractional interests in
- 6 multiple policies to spread the risk if a particular policy didn’t mature on time.
- 7 c. Conestoga’s agents told at least one investor that most of their policies would mature in
- 8 5 years, when in fact most policies have taken more than 5 years to mature.
- 9 d. Conestoga claimed it would set aside a portion of the investment into an escrow account
- 10 to cover future premiums should the insured on a given policy outlive their life
- 11 expectancy. Conestoga represented that these escrowed reserves would be sufficient to
- 12 pay the insurance premiums throughout the stated life expectancy, plus an additional
- 13 period after that. However, Conestoga routinely demanded advanced premiums from
- 14 investors despite having claimed there was sufficient escrowed funds. Investors were
- 15 forced to choose between losing their entire investment or having to pay much more
- 16 than they expected, which further cut into their investment returns. One California
- 17 investor sold her home in order to afford paying these premiums.

18 11. In connection with the offers and sales to California investors, Conestoga and its agents failed
 19 to disclose the following actions brought by various state agencies:

- 20 e. an August 2, 2012 Arkansas Securities Division Consent Order
- 21 f. a February 6, 2013 California DBO Desist and Refrain Order
- 22 g. a May 30, 2013 Utah Division of Securities Consent Order
- 23 h. an April 10, 2015 Wisconsin Division of Securities Cease and Desist Order
- 24 i. a March 10, 2017 Oklahoma Department of Securities Consent Order
- 25 j. an October 5, 2017 Colorado Division of Securities Consent Order
- 26 k. a July 23, 2018 Idaho Department of Finance, Securities Bureau Consent Order
- 27 l. a November 29, 2018 North Carolina Securities Division Consent Order

28 **II.**

Order Levying Administrative Penalties

(For violations of Corporations Code section 25110, 25210, 25401, 25403 and a previously issued Desist and Refrain Order)

12. The Commissioner re-alleges and reincorporates by reference paragraphs 1-11 of this Statement in Support as though fully set forth herein.

13. Corporations Code section 25252 authorizes the Commissioner to issue an order levying administrative penalties against any person for willful violations of any provision of the Corporate Securities Law of 1968 (“CSL”) and any rules promulgated thereunder. Specifically, Corporations Code section 25252 provides, in relevant part:

The commissioner may, after appropriate notice and opportunity for hearing, by orders, levy administrative penalties as follows:

(a) Any person subject to this division, other than a broker-dealer or investment adviser, who willfully violates any provision of this division, or who willfully violates any rule or order adopted or issued pursuant to this division, is liable for administrative penalties of not more than one thousand dollars (\$1,000) for the first violation, and not more than two thousand five hundred dollars (\$2,500) for each subsequent violation.

(b) Any broker-dealer or investment adviser that willfully violates any provision of this division to which it is subject, or that willfully violates any rule or order adopted or issued pursuant to this division and to which it is subject, is liable for administrative penalties of not more than five thousand dollars (\$5,000) for the first violation, not more than ten thousand dollars (\$10,000) for the second violation, and not more than fifteen thousand dollars (\$15,000) for each subsequent violation.

Based on the foregoing findings of fact, as set forth fully above in paragraphs 1-11, Respondents violated Corporations Code sections 25110, 25210, 25401, and 25403. Additionally, Respondents willfully violated a Desist and Refrain Order previously issued by the DBO on February 6, 2013 and stipulated to on February 12, 2013, which established violations of Corporations Code sections 25401 and 25210.

WHEREFORE, good cause showing, and pursuant to Corporations Code section 25252, the Commissioner prays for an order levying administrative penalties against Respondents Conestoga

1 Settlement Services, LLC, Conestoga International, LLC, and Michael McDermott jointly and
2 severally, as follows:

3 That pursuant to Corporations Code section 25252, the Commissioner levy administrative
4 penalties of one thousand dollars (\$1,000.00) for the first violation of Corporations Code and two
5 thousand five hundred dollars (\$2,500.00) for each subsequent violation according to proof, but not
6 less than \$100,000.00.

7
8 Dated: April 21, 2020
9 Sacramento, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

10 By _____
11 TAYLOR HERRLINGER
12 Counsel
13 Enforcement Division
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