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

11
12 In the Matter of:) NMLS NO.: 141048
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
14) SETTLEMENT AGREEMENT
15 Complainant,)
16 v.)
17 KRISTINA IRENE WIEST,)
18 Respondent.)

19 This Settlement Agreement is entered into by and between the Commissioner of Business
20 Oversight (Commissioner) and Kristina Irene Wiest (Wiest), and is made with respect to the
21 following facts:

22 I.

23 Recitals

24 A. The Department of Business Oversight (Department), through the Commissioner of
25 Business Oversight (Commissioner), has jurisdiction over the licensing and regulation of mortgage
26 loan originators pursuant to the California Financing Law (Fin. Code §22000, et seq.) (CFL) and the
27 California Residential Mortgage Lending Act (CRMLA) (Fin. Code §50000 et seq.).
28

1 B. Kristina Irene Wiest (Wiest) is a mortgage loan originator (MLO) licensed by the
2 Commissioner pursuant to the CFL and the CRMLA. Wiest has been licensed as an MLO in
3 California since on or about April 13, 2010.

4 C. On July 25, 2020, Wiest was personally served by the Commissioner with a Notice of
5 Intention to Issue Order Revoking Mortgage Loan Originator License Application, Accusation, and
6 accompanying documents dated July 23, 2020 (Accusation). In the Accusation, the Commissioner
7 alleged that Wiest had not demonstrated such financial responsibility, character, and general fitness
8 as to command the confidence of the community and to warrant a determination that she will operate
9 honestly, fairly, and efficiently as a MLO due to: (i) engaging in an act of dishonesty by having an
10 assistant complete a portion of her 2019 continuing education required for continued licensing as an
11 MLO; (ii) omitting material information to the Commissioner in response to an inquiry regarding her
12 recent employment termination; and, (iii) making material misrepresentations to the Commissioner
13 when she submitted and attested to at least three amended Form MU4's since May 29, 2020 by not
14 responding affirmatively to Disclosure Questions (Q) (1) and (2) (Accusation Allegations).

15 D. On July 29, 2020, Wiest timely submitted a Notice of Defense to the Commissioner
16 requesting an administrative hearing on the allegations set forth in the Accusation.

17 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
18 contained herein, the Commissioner and Wiest (the Parties) agree as follows:

19 **II.**

20 **Terms and Conditions**

21 1. **Purpose.** This Settlement Agreement resolves the Accusation Allegations in a
22 manner that avoids the expense of a hearing and other possible court proceedings, protects
23 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of
24 the CFL and CRMLA.

25 2. **License Surrender.** The Commissioner hereby agrees, as a resolution to this matter,
26 to allow Wiest to surrender her California MLO license (license surrender).

27 3. **Waiver of Hearing Rights.** Wiest acknowledges the Commissioner is ready,
28 willing, and able to proceed with the administrative enforcement action described above in Paragraph

1 C above. Wiest hereby waives her right to any hearing, and to any reconsideration, appeal, or other
2 right to review which may be afforded pursuant to the CFL, the CRMLA, the California
3 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law
4 in connection herewith. By waiving such rights, Wiest effectively consents to this Settlement
5 Agreement becoming final.

6 4. **Consideration.** In consideration of the Commissioner’s consent to a license
7 surrender, Wiest agrees that she will not apply for a further mortgage loan originator license through
8 the Department for a period of five-years from the date of execution of this Settlement Agreement as
9 defined in Paragraph 21 below.

10 5. **Failure to Comply.** Wiest further agrees that in the event she applies for a further
11 mortgage loan originator license with the Department prior to the expiration of the five-year period
12 set forth herein, such application shall be deemed automatically denied. In connection with any such
13 automatic denial, Wiest hereby waives her right to any reconsideration, appeal or other right to
14 review which may be afforded pursuant to the CFL, the CRMLA, the California Administrative
15 Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection
16 therewith.

17 6. **Full and Final Settlement.** The Parties hereby acknowledge and agree that this
18 Settlement Agreement is intended to constitute a full, final, and complete resolution of the
19 Accusation Allegations, and that no further proceedings or actions will be brought by the
20 Commissioner in connection with the Accusation Allegations under the CFL, the CRMLA or any
21 other provision of law, excepting therefrom any proceeding to enforce compliance with the terms of
22 this Settlement Agreement.

23 7. **Information Willfully Withheld or Misrepresented.** This Settlement Agreement
24 may be revoked, and the Commissioner may pursue any and all remedies available under the law
25 against Wiest if the Commissioner discovers that Wiest knowingly or willfully withheld information
26 used for and relied upon in this Settlement Agreement.

27 8. **Assisting Other Agencies.** Nothing in this Settlement Agreement limits the
28 Commissioner’s ability to assist any other government agency (city, county, state, or federal) with

1 any administrative, civil or criminal prosecutions brought by that agency against Wiest or any other
2 person based upon any of the activities alleged in this matter or otherwise.

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

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

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

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

27 13. **Governing Law.** This Settlement Agreement will be governed by and construed in
28 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,

1 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
2 forum to the maintenance of such action or proceeding in such court.

3 14. **Counterparts**. This Settlement Agreement may be executed in one or more separate
4 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
5 together constitute a single document.

6 15. **Mandatory Disclosure in Future Applications**. Wiest agrees to disclose this
7 Settlement Agreement in any application for a license, permit or qualification under the
8 Commissioner's current or future jurisdiction.

9 16. **Effect Upon Future Proceedings**. If Wiest is the subject of any future action by the
10 Commissioner to enforce this Settlement Agreement, then the subject matter hereof shall be admitted
11 for the purpose of such action.

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

17 18. **Notice**. Any notice/report required under this Settlement Agreement shall be
18 addressed as follows:

19 To Wiest: Haydn J. Richards, Jr., Esq.
20 Bradley Arrant Boulton Cummings LLP
21 1615 L Street, N. W., Ste. 1350
22 Washington, D.C. 20036
hrichards@bradley.com

23 To the Commissioner: Judy L. Hartley, Esq.
24 Senior Counsel
25 Department of Business Oversight
320 W. 4th Street, Suite 750
26 Los Angeles, California 90013-2344
judy.hartley@dbo.ca.gov

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

1 original signature.

2 20. **Public Record.** Wiest hereby acknowledges that this Settlement Agreement is and
3 will be a matter of public record.

4 21. **Effective Date.** This Settlement Agreement shall become final and effective when
5 signed by all Parties and delivered by the Commissioner’s counsel via e-mail to Wiest’s counsel at
6 hrichards@bradley.com.

7 22. **Authority to Sign.** Each signatory hereto covenants that he or she possesses all
8 necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the
9 obligations set forth herein.

10 Dated: September 14, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

11
12 By _____
13 MARY ANN SMITH
Deputy Commissioner

14 Dated: September 9, 2020

15 By _____
16 KRISTINA IRENE WIEST, an individual

17 APPROVED AS TO FORM:

18 By _____
19 HAYDN J. RICHARDS, JR., ESQ. attorney for
20 KRISTINA IRENE WIEST

21 Commissioner of Business Oversight

22 By _____
23 JUDY L. HARTLEY, ESQ.
24 Senior Counsel