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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
9 OF THE STATE OF CALIFORNIA

11 In the Matter of:)	OAH CASE NO. 2021060417
)	
12 THE COMMISSIONER OF FINANCIAL)	CFL LICENSE NO.: 603J689
13 PROTECTION AND INNOVATION,)	
)	SETTLEMENT AGREEMENT
14 Complainant,)	
)	
15 v.)	Hearing Date: October 19, 2021
)	Time: 9:00 a.m.
16 CALIFORNIA INVESTMENT MORTGAGE)	Location: Office of Administrative Hearings
17 FUND I LP,)	402 West Broadway, Suite 600
)	San Diego, California 92101
18 Respondent.)	
)	
)	

20
21 This Settlement Agreement is entered by and between the Complainant, the Commissioner
22 of Financial Protection and Innovation (Commissioner), and the Respondent, California Investment
23 Mortgage Fund I LP (California Investment), and is made with respect to the following:

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. California Investment is a limited partnership, with a principal place of business at 23
2 Corporate Plaza, Suite 150, Newport Beach, California 92660. Respondent is licensed as a finance
3 lender and broker under the CFL with main license number 603J689.

4 C. Mark Majerovic is the Director and registered agent for service of process for
5 California Investment.

6 D. California Investment reported in its CFL Annual Reports for 2017, 2018, and 2019
7 that Respondent had a net worth of less than \$25,000 in violation of Financial Code section 22104,
8 subdivision (a).

9 E. On January 13, 2021, the Commissioner demanded that Respondent submit a copy of
10 its September 30, 2020 balance sheet showing compliance with Financial Code section 22104 by no
11 later than February 5, 2021. Respondent failed to provide the balance sheet.

12 F. On March 3, 2021, the Commissioner demanded that Respondent submit a copy of its
13 September 30, 2020 balance sheet showing compliance with Financial Code section 22104 by March
14 11, 2021. Respondent failed to submit these records to the Commissioner.

15 G. On March 17, 2021, the Commissioner served a Notice of Intention to Issue Order
16 Revoking Finance Lender/Broker License and Accusation (Accusation) on California Investment by
17 e-mail and certified mail return receipt. The Accusation is incorporated herein by reference.

18 H. The Accusation alleged that California Investment committed the following
19 violations listed in Paragraphs i through ii below (Accusation Allegations):

- 20 i. Failed to maintain a net worth of \$25,000.00 in violation of Financial Code
21 section 22104, subdivision (a) and
- 22 ii. Failed to comply with the Commissioner's demand in violation of Financial
23 Code section 22714, subdivision (a).

24 I. On April 6, 2021, California Investment timely submitted its Notice of Defense and
25 requested a hearing to contest the Accusation Allegations.

26 J. It is the intention of California Investment and the Commissioner (collectively, the
27 Parties) to resolve the Accusation Allegations without the necessity of a hearing.

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1 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
2 contained herein, the Parties agree as follows:

3 **II.**

4 **Terms and Conditions**

5 1. Purpose. This Settlement Agreement resolves the Accusation Allegations before the
6 Commissioner set forth in Paragraphs A through J above in a manner that avoids the expense of a
7 hearing and other possible court proceedings, protects consumers, is in the public interest, and is
8 consistent with the purposes, policies, and provisions of the CFL.

9 2. Final Order to Discontinue Violations. Respondent stipulates that it is ordered to
10 discontinue violating Financial Code sections 22104, subdivision (a), and 22714, subdivision (a).

11 3. Administrative Penalty. Respondent shall pay an administrative penalty of
12 \$2,500.00 no later than 60 days from the date of executing this Settlement Agreement (Date of
13 Settlement Execution). This payment shall be made payable to the Commissioner in the form of a
14 cashier's check or Automated Clearing House deposit to the Department and transmitted to the
15 following address: Accounting – Enforcement Division, Department of Financial Protection and
16 Innovation, 2101 Arena Blvd., Sacramento, California 95834, contemporaneously with notice of
17 transmittal to Vanessa Lu, Counsel, at Vanessa.Lu@dfpi.ca.gov.

18 4. Failure to Pay Administrative Penalty. If Respondent fails to comply with paragraph
19 3, the Commissioner may summarily suspend Respondent from engaging in business under its
20 license until it provides evidence of compliance to the Commissioner's satisfaction. Respondent
21 hereby waives any notice or hearing rights afforded under the Administrative Procedure Act,
22 including Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any
23 other provision of law to contest the summary suspension contemplated by this paragraph.

24 5. Waiver of Hearing Rights. Respondent acknowledges the Commissioner is ready,
25 willing, and able to proceed with the filing of an administrative enforcement action on the charges
26 contained in this Settlement Agreement. Respondent hereby waives the right to any hearings, and to
27 any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
28 California Administrative Procedure Act, the California Code of Civil Procedure, or any other

1 provision of law. Respondent further expressly waives any requirement for the filing of an
2 Accusation pursuant to Government section 11415.60, subdivision (b). By waiving such rights,
3 Respondent effectively consents to this Settlement Agreement becoming final.

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

9 7. Failure to Comply with Settlement Agreement. Respondent agrees that if it fails to
10 comply with the terms of this Settlement Agreement, the Commissioner may, in addition to all other
11 available remedies it may invoke under the CFL, summarily suspend/revoke the CFL license of
12 Respondent until Respondent is in compliance. Respondent waives any notice and hearing rights to
13 contest such summary suspensions/revocations which may be afforded under the CFL, the California
14 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law
15 in connection therewith.

16 8. Information Willfully Withheld or Misrepresented. This Settlement Agreement may
17 be revoked, and the Commissioner may pursue any and all remedies available under law against
18 Respondent if the Commissioner discovers that Respondent knowingly or willfully withheld or
19 misrepresented information used for and relied upon in this Settlement Agreement.

20 9. Future Actions by Commissioner. If Respondent fails to comply with the terms of the
21 Settlement Agreement, the Commissioner may institute proceedings for any and all violations
22 otherwise resolved under this Settlement Agreement. The Commissioner reserves the right to bring
23 any future actions against Respondent, or any of its partners, owners, officers, shareholders,
24 directors, employees or successors for any and all unknown violations of this CFL.

25 10. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
26 Commissioner's ability to assist any other government agency (city, county, state or federal) with
27 any prosecution, administrative, civil or criminal action brought by that agency against Respondent,
28 or any other person, based on any of the activities alleged in this matter or otherwise.

1 11. No Presumption Against Drafter. Each party acknowledges that it has had the
2 opportunity to draft, review, and edit the language of this Settlement Agreement. Accordingly, the
3 parties intend no presumption for or against the drafting party will apply in construing any part of
4 this Settlement Agreement. The parties waive the benefit of Civil Code section 1654 as amended or
5 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
6 language of a contract should be interpreted most strongly against the party who caused the
7 uncertainty to exist.

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

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

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

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

26 16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
27 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the
28 parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of

1 any other provision. No waiver by either party of any breach of, or of compliance with, any
2 condition or provision of this Settlement Agreement by the other party will be considered a waiver
3 of any other condition or provision or of the same condition or provision at another time.

4 17. Full Integration. This Settlement Agreement is the final written expression and the
5 complete and exclusive statement of all the agreements, conditions, promises, representations, and
6 covenants between the parties with respect to the subject matter hereof, and supersedes all prior or
7 contemporaneous agreements, negotiations, representations, understandings, and discussions
8 between and among the parties, their respective representatives, and any other person or entity, with
9 respect to the subject matter covered hereby.

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

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

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

21 21. Voluntary Agreement. Respondent hereby enters in this Settlement Agreement
22 voluntarily and without coercion and acknowledges that no promises, threats, or assurances have
23 been made by the Commissioner or any officer, or agent thereof, about this Settlement Agreement.
24 The parties each represent and acknowledge that he, she or it is executing this Settlement Agreement
25 completely voluntarily and without any duress or undue influence of any kind from any source.

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

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To Respondent: California Investment Mortgage Fund I LP
Mark Majerovic, Director
23 Corporate Plaza, Suite 150
Newport Beach, California 92660
mm@mdminvestment.com
billing@mdminvestment.com

To the Commissioner: Vanessa Lu, Counsel
Department of Financial Protection and Innovation
1455 Frazee Road, Suite 315
San Diego, California 92108
Vanessa.Lu@dfpi.ca.gov

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

24. Public Record. PDA 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 each of the Parties and delivered by the Commissioner’s agent via e-mail to mm@mdminvestment.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: June 28, 2021

CHRISTOPHER S. SCHULTZ
Acting Commissioner of Financial Protection and Innovation

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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Dated: June 25, 2021

CALIFORNIA INVESTMENT MORTGAGE FUND I LP

By _____
MARK MAJEROVIC
Member

