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

11
12 In the Matter of:)

13 THE COMMISSIONER OF FINANCIAL)
14 PROTECTION AND INNOVATION,)

15 Complainant,)

16 v.)

17 KUHONG KIM, an individual,)

18 Respondent.)
19)

SETTLEMENT AGREEMENT

20 This Settlement Agreement (Agreement) is entered into between the Commissioner of the
21 Department of Financial Protection and Innovation (Commissioner) and Kuhong Kim, an individual
22 (Respondent) (collectively the Parties) and is made with respect to the following facts:

23 **I.**

24 **Recitals**

25 A. The Commissioner is the head of the Department of Financial Protection and
26 Innovation (Department) and is responsible for administering and enforcing the California
27 Franchise Investment Law (FIL) (Corp. Code, § 31000 et seq.), and registering the offer and sale of
28 franchises in California.

1 B. Kuhong Kim is or was a licensed Certified Public Accountant (CPA) in the state of
2 New York.

3 C. On February 22, 2021, the Commissioner issued a Citation and Desist and Refrain
4 Order (Order) against Respondent for violation of Corporations Code section 31200.

5 D. The Commissioner properly served the Order on Kim.

6 E. On April 20, 2021, Kim requested that the Commissioner dismiss the Order. The
7 Parties subsequently entered into settlement discussions.

8 F. On March 1, 2022, the Commissioner issued an Amended Citation and Desist and
9 Refrain Order (the Amended Order). The Amended Order amends and replaces the initial Order.

10 G. By this Settlement Agreement, Respondent and the Commissioner intend to resolve
11 the Amended Order amicably without the necessity of a hearing or other litigation. Respondent, by
12 entering into this Settlement Agreement, does not admit or deny the Commissioner’s findings or
13 conclusions of law in the Amended Order.

14 NOW THEREFORE, in consideration of the foregoing, and the terms and conditions set
15 forth herein, the Parties agree as follows:

16 **II.**

17 **Terms and Conditions**

18 1. Purpose. This Settlement Agreement resolves the issues before the Commissioner,
19 described in the Amended Order in a manner that avoids the expense of a hearing and other
20 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
21 purposes and provisions of the FIL.

22 2. Final Desist and Refrain Order. Pursuant to Corporations Code section 31406,
23 Kuhong Kim is hereby ordered to desist and refrain from willfully making any untrue statement of a
24 material fact in any application, notice, or report filed with the Commissioner, or willfully to omit to
25 state in any such application, notice, or report any material fact which is required to be stated in
26 violation of Corporations Code section 31200 (the Desist and Refrain Order), including but not
27 limited to the conduct described in the Amended Order. Kuhong Kim agrees to comply with the
28 Desist and Refrain Order and stipulates that it is final and effective.

1 3. Waiver of Hearing Rights. Respondent acknowledges that the Commissioner is
2 ready, willing, and able to proceed with the administrative enforcement action described in
3 Paragraph F, and Respondent hereby waives the right to a hearing, and to any reconsideration,
4 appeal, or other right to review which may be afforded pursuant to the FIL, the California
5 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law,
6 and by waiving such rights, Respondent effectively consents to this Settlement Agreement becoming
7 final.

8 4. Failure to Comply with Settlement Agreement. If Respondent fails to comply with
9 any term of the Settlement Agreement it shall be deemed a breach of this Settlement Agreement and
10 the Commissioner may institute proceedings for any and all violations of the FIL or any other law
11 under the Commissioner’s jurisdiction, including those violations resolved under this Settlement
12 Agreement. Respondent waives any notice and hearing rights which may be afforded under the FIL,
13 the California Administrative Procedure Act, the California Code of Civil Procedure or any other
14 provision of law in connection therewith.

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

19 6. Future Actions by the Commissioner. The Commissioner reserves the right to bring
20 any future actions against Respondent for any and all unknown violations of the FIL.

21 7. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
22 Commissioner’s ability to assist any other government agency (whether city, county, state, or
23 federal) with any administrative, civil or criminal action brought by that agency against Respondent
24 or any other person based upon any of the activities alleged in this matter or otherwise.

25 8. Headings. The headings to the paragraphs of this Settlement Agreement are inserted
26 for convenience only and will not be deemed a part hereof or affect the construction or
27 interpretation of the provisions hereof.
28

1 9. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or
2 successors in interest.

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

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

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

25 13. 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 19. Public Record. Respondent hereby acknowledges that this Settlement Agreement is
2 and will be a matter of public record.

3 20. Effective Date. This Settlement Agreement shall become final and effective when
4 signed by all Parties and delivered by the Commissioner’s agent via e-mail to Respondent’s
5 counsel, Jae Oh, Esq. at Jaeoh70@hotmail.com.

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

9
10 Dated: March 1, 2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and
Innovation

11
12
13 By: _____
14 Mary Ann Smith
15 Deputy Commissioner of Enforcement

16 Dated: March 1, 2022

KUHONG KIM, and individual

17 By: _____
18 Kuhong Kim

