

1 CLOTHILDE V. HEWLETT
Commissioner
2 MARY ANN SMITH
Deputy Commissioner
3 MIRANDA LEKANDER
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5 Department of Financial Protection and Innovation
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8 Attorneys for Complainant

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

13 In the Matter of:) SETTLEMENT AGREEMENT
14)
15 THE COMMISSIONER OF FINANCIAL)
16 PROTECTION AND INNOVATION,)
17 Complainant,)
18 v.)
19 GREENWOOD, INC,)
20 Respondent.)
21)
22)

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24 I.
25 RECITALS

26 A. The Commissioner of Financial Protection and Innovation (Commissioner) agrees to
27 enter this Settlement Agreement (Agreement) with Greenwood, Inc. (Greenwood). Together, the
28 Commissioner and Greenwood will be referred to as the “Parties.”

B. Greenwood is a financial technology company that works with banking partners to

1 provide consumer-oriented banking products. Greenwood is incorporated in Delaware with
2 headquarters in Atlanta, Georgia. Greenwood represents that its business model is predicated on
3 partnering with certain banks (“Bank Partners”) to provide innovative, fair, and responsible
4 financial products to consumers to improve their financial wellbeing.

5 C. At all relevant times herein, Greenwood was not licensed to operate as a bank in
6 California or in any other jurisdiction, nor was it exempt from such licensure.

7 D. The Commissioner issues licenses and regulates state-chartered banks in California under
8 the authority of Financial Code sections 300 and 560. Any person engaged in the business of
9 banking in California must be licensed by the Commissioner unless exempt from licensure, or an
10 agent of a person licensed. (Fin. Code, § 563). Further, Financial Code section 561 prohibits any
11 person from transacting “business in a way or manner as to lead the public to believe that its
12 business is that of a bank” without actual authority to engage in such business.

13 E. In early 2022, the Commissioner commenced an inquiry of Greenwood for potential
14 violations of Financial Code sections 561 and 563 concerning Greenwood’s use of the term “bank”
15 or “banking” in the course of Greenwood’s business in California.

16 F. As a result of the inquiry, the Commissioner finds that Greenwood violated Financial
17 Code section 561 by using in connection with its business in California: (1) the URL or website
18 address of “bankgreenwood.com;” (2) the email domain name of “@bankgreenwood.com;” and, (3)
19 the words “bank” and “banking” in other aspects of Greenwood’s business.

20 G. Greenwood has cooperated with the Commissioner’s inquiry and represents that, by
21 entering this Agreement, Greenwood is willing to work with regulatory agencies to ensure that its
22 products are transparently disclosed to its customers and the public. While neither admitting nor
23 denying the Commissioner’s findings, Greenwood agrees to comply with the terms and conditions of
24 this Agreement as outlined below.

25 **II.**

26 **TERMS AND CONDITIONS**

27 1. **Purpose.** This Agreement resolves the issues before the Commissioner in a manner
28 that avoids the business disruption and expense of a hearing and other possible court proceedings,

1 protects consumers, is in the public interest, and is consistent with the purposes, policies, and
2 provisions of the applicable law.

3 2. Order to Cease and Desist. The Commissioner hereby orders Greenwood, and
4 Greenwood agrees that, in accordance with Financial Code sections 561 and 563, it will cease and
5 desist from using: (1) the URL or website address “bankgreenwood.com”; (2) the email domain
6 name of “@bankgreenwood.com”; and (3) the word “bank” or “banking” in its URL. This cease
7 and desist shall remain in effect unless and until Greenwood becomes licensed or otherwise
8 authorized to engage in the business of banking under the laws of California, another state, or the
9 United States. Greenwood agrees that this Cease and Desist Order is hereby deemed a final order.

10 3. Review of Webpage and Advertising. Greenwood agrees to perform the following
11 review and make enhancements to its URL or website address, email domain name, webpage,
12 mobile app, and advertising in compliance with this Agreement by January 31, 2023. Greenwood
13 will remove the word “bank” from its URL and email address by January 31, 2023, and the
14 Commissioner acknowledges and agrees that Greenwood will perform quality control and testing
15 of all other enhancements by September 30, 2024, and promptly thereafter make further
16 enhancements to address any exceptions identified, as follows:

- 17 a. Greenwood shall distance itself from use of the term “banking” and derivatives by
18 clarifying statements on its website, on its mobile app, and in advertising to address
19 the following:
- 20 i. Where “banking” terminology is used, Greenwood shall place a disclosure
21 stating that Greenwood is not a bank and banking services are provided by
22 its Bank Partner(s). The disclosure shall be in bold and/or increased font
23 size in a clear and conspicuous manner proximate to the use of the banking
24 terminology.
 - 25 ii. Greenwood shall enhance its internal review and approval process for when
26 it presents testimonials that may be perceived as representing Greenwood as
27 a bank.
 - 28 iii. Greenwood shall clarify or annotate in all testimonials it publishes, or causes
to be published, that use “banking” terminology that Greenwood is a
financial technology company not a bank and banking services are provided
by Greenwood’s Bank Partner(s). Further, Greenwood shall not represent to
affiliates or agents that it is a bank unless and until it becomes licensed or
otherwise authorized to engage in the business of banking under the laws of

- 1 California, another state, or the United States. If Greenwood pays a third
2 party to market Greenwood’s services to the public, and it is brought to
3 Greenwood’s attention that one or more of the paid third parties has publicly
4 referred to Greenwood as a bank before Greenwood is licensed or otherwise
5 authorized to engage in the business of banking, Greenwood will instruct (in
6 writing) each paid third party to cease and desist from representing to the
7 public that Greenwood is a bank.
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- iv. Where appropriate, Greenwood shall revise website language to state that customers can open an account “through” Greenwood, where existing language states “Modern banking for the culture” or “digital banking experience” or similar language.
- v. In paid Google search results, Greenwood shall place a statement on Google and other ads that banking services are provided by its Bank Partner(s), which it will identify by name. The required statement pursuant to this section 3(a)(v) will reside on a landing page within one-click away from the Google or paid ad.
- vi. Greenwood shall include in its website Frequently Asked Questions (FAQ), an answer that clearly explains that the bank accounts are held at its Bank Partner(s), which it will identify by name.
- vii. Greenwood shall provide a clear and prominent disclaimer during the account set up process to inform the customer that Greenwood is a financial technology company not a bank and banking services are provided by Greenwood’s Bank Partner(s).
- b. Greenwood shall clarify its description of Greenwood’s role as technology, business processor, and marketing service provider to its Bank Partner(s) and make clear that banking products and services are provided by Greenwood’s Bank Partner(s). The description shall be clear and conspicuous in the response to the “About Us” question in the company’s website under the “Who We Are” or equivalent tab and FAQ.
- c. Compliance and Reporting. Greenwood shall establish, implement, enhance, and maintain testing policies, procedures, and standards reasonably designed to, at a minimum, ensure compliance with the provisions of this Agreement and with Financial Code section 561. Further, by January 31, 2023, and again one year after the effective date of this Agreement, Greenwood shall submit to the Commissioner an accurate written compliance progress report, which, at a minimum describes in detail the manner in which Greenwood has complied with this Agreement.
4. Waiver of Hearing Rights. Greenwood hereby waives its right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the

1 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
2 provision of law or any other rights to hearing, reconsideration, appeal, or other action in this
3 matter. By waiving such rights, Greenwood effectively consents to the Agreement becoming final
4 and unappealable. Nothing in this Agreement shall waive Greenwood’s right to defend itself in the
5 event of a dispute about compliance with its terms.

6 5. Full and Final Settlement. Greenwood hereby acknowledges and agrees that this
7 Agreement is intended to constitute a full, final, and complete resolution of Greenwood’s alleged
8 violations as set forth in the Recitals (“Violations”), and that no further proceedings or actions will
9 be brought by the Commissioner against Greenwood based on the alleged Violations, excepting
10 any proceeding to enforce compliance with the terms of this Agreement or if such proceeding is
11 based upon discovery of new and further violations of the law or regulation that do not form the
12 basis for the Agreement and which Greenwood knowingly concealed from the Commissioner.

13 6. Information Willfully Withheld. This Agreement may be revoked if the
14 Commissioner later finds out that Greenwood knowingly or willfully withheld information used and
15 relied upon in the Agreement.

16 7. Assisting Other Agencies. The Parties further acknowledge and agree that nothing in
17 the Agreement shall limit the Commissioner’s ability to assist any other agency (city, county, state,
18 or federal) with any prosecution, administrative, civil, or criminal, brought by any such agency
19 against Greenwood or any other person based upon any of the activities alleged in this matter or
20 otherwise.

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

24 9. Binding. The Agreement is binding on all heirs, assigns, or successors in interest.

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

1 other person or entity not expressly set forth herein, or upon the failure of any party or any other
2 person or entity to make any statement, representation, or disclosure of anything whatsoever. The
3 Parties have included this clause: (1) to preclude any claim that any party was in any way
4 fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol
5 evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

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

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

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

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

25 15. Effect Upon Future Proceedings. If Greenwood applies for any license, permit or
26 qualification under the Commissioner’s current or future jurisdiction, or are the subject of any future
27 action by such agency to enforce this Agreement, then the subject matter hereof shall be admissible
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1 for the purpose of such application(s) or enforcement proceedings(s).

2 16. Voluntary Agreement. Greenwood enters into the Agreement voluntarily and without
3 coercion and acknowledges that no promises, threats, or assurances have been made by the State of
4 California, or any officer or agent thereof, about the Agreement other than as reflected herein.

5 17. Notice. Any notices required under the Agreement shall be provided to
6 each party at the following addresses:

7 If to Greenwood to: James W. Stevens, Esq.
8 Troutman Pepper Hamilton Sanders LLP
9 600 Peachtree Street NE, Suite 3000
10 Atlanta, Georgia 30308-2216
11 (404) 885-3721
12 james.stevens@troutman.com

13 Keith Barnett, Esq.
14 Troutman Pepper Hamilton Sanders LLP
15 600 Peachtree Street NE, Suite 3000
16 Atlanta, Georgia 30308-2216
17 (404) 885-3423
18 keith.barnett@troutman.com

19 If to Commissioner to: Paul Yee, Senior Counsel
20 Department of Financial Protection and Innovation
21 One Sansome Street, Suite 600
22 San Francisco, California 94104-4448
23 (415) 972-8544
24 Paul.Yee@dfpi.ca.gov

25 18. Signatures. An electronic signature, or a faxed, photocopied, or scanned copy of an
26 original signature, shall be deemed the same as an original signature.

27 19. Public Record. Greenwood acknowledges that this Agreement shall be a matter of
28 public record.

20. Effective Date. The Agreement shall become final and effective when signed by all
Parties and delivered by the Commissioner or her assigns to Greenwood’s counsel of record via e-
mail at: james.stevens@troutman.com and keith.barnett@troutman.com.

21. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary

1 capacity and authority to sign and enter into this Agreement and undertake the obligations set forth
2 herein.

3 IN WITNESS WHEREOF, the Parties hereto have approved and executed the Settlement Agreement
4 on the dates set forth opposite their respective signatures.

5 Dated: December 23, 2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

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8 By _____
9 MARY ANN SMITH
10 Deputy Commissioner
11 Enforcement Division

12 Dated: December 21, 2022

GREENWOOD, INC.

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14 By _____
15 RYAN GLOVER
16 Chairman

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