

1 CLOTHILDE V. HEWLETT
Commissioner
2 MARY ANN SMITH
Deputy Commissioner
3 AMY J. WINN
Assistant Chief Counsel
4 VANESSA T. LU (State Bar No. 295217)
Senior Counsel
5 GALEN YUN (State Bar No. 342023)
Counsel
6
7 Department of Financial Protection and Innovation
1455 Frazee Road, Suite 315
8 San Diego, California 92108
9 Telephone: (213) 703-9181
Facsimile: (619) 525-4045
10

11 Attorneys for Complainant

12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
OF THE STATE OF CALIFORNIA
13

14 In the Matter of:

15 THE COMMISSIONER OF FINANCIAL
16 PROTECTION AND INNOVATION,

17 Complainant,

18 v.

19 EASY CHOICE BUSINESS SOLUTIONS,
20 INC., doing business as EASY CHOICE
WIRELESS,

21 Respondent.
22
23

)
) OAH CASE NO.: 2023050731
)
) SETTLEMENT AGREEMENT
)
)
) HEARING DATE: October 11, 2023
) TIME: 9:00 A.M.
) LOCATION: Video/Telephonic Hearing
) 402 West Broadway, Suite 600
) San Diego, CA 92101
)
)
)
)
)
)
)
)
)

24
25 This Settlement Agreement (Settlement Agreement) is entered into between the
26 Commissioner of Financial Protection and Innovation (Commissioner) and Easy Choice Business
27 Solutions, Inc., doing business as Easy Choice Wireless (Easy Choice Business Solutions) and is
28 made with respect to the following facts.

1 I.

2 Recitals

3 A. The Department of Financial Protection and Innovation (Department), through the
4 Commissioner, has jurisdiction over the licensing and regulations of persons and entities engaged in
5 the business of the offer and sale of securities under the Corporate Securities Law of 1968 (CSL)
6 (Cal. Corp. Code §§ 25000-25707). The Commissioner is authorized to administer and enforce the
7 provisions of the CSL.

8 B. Easy Choice Business Solutions (Respondent) is a California corporation with its
9 primary place of business at 5621 Palmer Way, Suite G, Carlsbad, California 92010.

10 C. Errol Alexander Smart, also known as Tony Smart (Smart), is Easy Choice Business
11 Solutions' chief executive officer and founder.

12 D. On or around May 21, 2020, the Commissioner issued a desist and refrain order (2020
13 Desist and Refrain Order) against Smart and Armed Forces Wireless / Mobile Inc. (Armed Forces
14 Wireless) after finding that, in connection with the offer and sale of securities, Smart and Armed
15 Forces Wireless made or caused to be made misrepresentations of material fact or omitted material
16 facts necessary to make the statements made, in light of the circumstances under which they were
17 made, not misleading in violation of Corporations Code section 25401.

18 E. On or around June 4, 2020, Smart was served with the 2020 Desist and Refrain Order.
19 Smart did not contest the 2020 Desist and Refrain Order, and it became final.

20 F. On May 1, 2023, the Commissioner issued a desist and refrain order against Easy
21 Choice Business Solutions (2023 Desist and Refrain Order) for failing to disclose material facts in
22 connection with the offer and sale of securities, in violation of Corporations Code section 25401.

23 These material omissions in connection with the offer or sale of securities were as follows:

- 24 i. Respondent omitted to inform investors of the 2020 Desist and Refrain Order;
- 25 ii. Respondent omitted to inform investors that Smart was convicted in 1996 of
26 federal felony charges of wire fraud and mail fraud and
- 27 iii. Respondent omitted to inform investors that Smart voluntarily filed for chapter
28 7 bankruptcy in 2001 and received a discharge of his debts.

1 G. On May 5, 2023, the Commissioner personally served the 2023 Desist and Refrain
2 Order on Easy Choice Business Solutions. On May 8, 2023, Respondent timely requested a hearing
3 in order to appeal the Commissioner’s 2023 Desist and Refrain Order. The administrative hearing is
4 currently set to begin before the Office of Administrative Hearings (OAH) on October 11, 2023,
5 OAH case number 2023050731.

6 H. The Commissioner and Respondent intend to resolve this matter amicably without the
7 necessity of a hearing or further litigation.

8 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
9 contained herein, the Commissioner and Respondent (the Parties) agree as follows:

10 **II.**

11 **Terms and Conditions**

12 1. Purpose. This Settlement Agreement resolves this matter in a manner that avoids the
13 expense of a hearing and other possible court proceedings, protects investors, is in the public interest,
14 and is consistent with the purposes, policies, and provisions of the CSL.

15 2. Final Desist and Refrain Order. Respondent stipulates to the finality of the 2023
16 Desist and Refrain Order, and agrees to desist and refrain from offering or selling or buying or
17 offering to buy or sell any security in the State of California by means of any written or oral
18 communication which includes an untrue statement of a material fact, or omits to state a material fact
19 necessary in order to make the statements made, in light of the circumstances under which they were
20 made, not misleading. The 2023 Desist and Refrain Order is deemed final from the Effective Date of
21 this Settlement Agreement, with the Effective Date defined in paragraph 21 below.

22 3. Waiver of Hearing Rights. Respondent agrees that this Settlement Agreement shall
23 have the effect of withdrawing its request for an administrative hearing on the matter set forth herein.
24 Respondent acknowledges its right to an administrative hearing under the CSL in connection with the
25 2023 Desist and Refrain Order and hereby waives such right to a hearing and to any reconsideration,
26 appeal, or other rights which it may be afforded under the CSL, the Administrative Procedure Act
27 (Cal. Gov. Code §§ 11370-11501), the California Code of Civil Procedure (Cal. Code Civ. Proc.
28 §§ 1-9566), or any provision of law in connection with this matter.

1 4. Full and Final Settlement. The Parties hereby acknowledge and agree that this
2 Settlement Agreement is intended to constitute a full and final resolution of the matter described in it.
3 The Commissioner will not bring any further action or proceeding concerning the matter unless she
4 discovers violations by Respondent that do not form the basis for this Settlement Agreement,
5 including violations knowingly concealed from the Commissioner.

6 5. Information Willfully Withheld. The Settlement Agreement may be revoked and the
7 Commissioner may pursue any and all remedies available under law against Respondent if the
8 Commissioner discovers that Respondent knowingly or willfully withheld or misrepresented
9 information used for and relied upon in this Settlement Agreement.

10 6. Future Actions by Commissioner. If Respondent fails to comply with any term of the
11 Settlement Agreement or violates the 2020 or the 2023 Desist and Refrain Order, Respondent agrees
12 that the facts stated in the 2020 and 2023 Desist and Refrain Orders are admitted for the purpose of
13 proving a violation of this Settlement Agreement as well as for proving a violation of the 2020 and
14 2023 Desist and Refrain Orders. Respondent further agrees that the Commissioner may institute
15 proceedings for any and all violations otherwise unresolved under this Settlement Agreement. The
16 Commissioner reserves the right to bring any future actions against Respondent, or any of its
17 partners, owners, officers, shareholders, directors, employees, or successors, for any violations of the
18 CSL, other than any violations related to those matters which are the subject of the 2020 and 2023
19 Desist and Refrain Orders as identified herein.

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

24 8. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it
25 has received independent advice from its attorney(s) or representative(s) with respect to the
26 advisability of executing the Settlement Agreement.

27 ///

28 ///

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

4 10. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or successors
5 in interest.

6 11. 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 party, or any
10 other person or entity not expressly set forth herein, or upon the failure of any party or any other
11 person or entity to make any statement, representation or disclosure of anything whatsoever. The
12 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 12. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
16 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the
17 Parties. Waiver of a provision of this Settlement Agreement will not be deemed a waiver of
18 any other provision.

19 13. Full Integration. This Settlement Agreement is the final written express and the
20 complete and exclusive statement of all agreements, conditions, promises, representations, and
21 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or
22 contemporaneous agreements, negotiations, representations, understandings, and discussions between
23 and among the Parties, their respective representatives, and any other person or entity, with respect to
24 the subject matter covered hereby. The Parties have included this clause to preclude the introduction
25 of parol evidence to vary, interpret, supplement, or contradict the terms of this Settlement Agreement.

26 ///

27 ///

28 ///

1 14. Governing Law. This Settlement Agreement will be governed by and construed in
2 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,
3 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
4 forum to the maintenance of such action or proceeding in such court.

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

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

12 17. Voluntary Agreement. Respondent enters into this Settlement Agreement voluntarily
13 and without coercion and acknowledges that no promises, threats, or assurances have been made by
14 the 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 notices required under the Settlement Agreement shall be provided to
18 each party at the following addresses:

19 To Respondent: Easy Choice Business Solutions, Inc.
20 Attention: Andrew Ivchenko, Esq.
21 Counsel for Respondent
22 4960 South Gilbert Road, Suite 1-226
23 Chandler, AZ 85249
24 aivchenkopllc@gmail.com

25 To the Commissioner: Vanessa T. Lu, Senior Counsel
26 Department of Financial Protection and Innovation
27 1455 Frazee Road, Suite 315
28 San Diego, CA 92108
 Vanessa.Lu@dfpi.ca.gov

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

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

3 21. Effective Date. This Settlement Agreement shall become final and effective when
4 signed by all parties and delivered by the Commissioner’s counsel via e-mail to Respondent’s
5 counsel, Andrew Ivchenko, aivchenkopllc@gmail.com.

6 22. Settlement Authority. Each signatory hereto covenants that he or 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 23. No Presumption Against Drafter. In that the Parties have had the opportunity to draft,
10 review, and edit the language of this Settlement Agreement, no presumption for or against any party
11 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
12 relating to, connected to, or involving this Settlement Agreement. Accordingly, the Parties waive the
13 benefit of Civil Code section 1654 and any successor or amended statutes, providing that in cases of

14 ///
15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 uncertainty, language of a contract should be interpreted most strongly against the party who caused
2 the uncertainty to exist.

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

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: September 12, 2023

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: September 12, 2023

By _____
ROBERT FEASEL
Chief Operating Officer
Easy Choice Business Solutions, Inc.

APPROVED AS TO FORM:

Andrew Ivchenko, Esq.
Counsel for Respondent