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9 Attorneys for Complainant

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

12
13 In the Matter of:

14 THE COMMISSIONER OF FINANCIAL
PROTECTION AND INNOVATION,

15 Complainant,

16 v.

17 NOBEL FINANCIAL INC.,

18 Respondent.

) OAH CASE NO.: 2023080286
) LIS No.: 2617
) NMLS ID: 1313855
) SETTLEMENT AGREEMENT
) HEARING DATE: November 28, 2023
) TIME: 9:00 A.M.
) LOCATION: Video/Telephonic Hearing
402 West Broadway, Suite 600
San Diego, CA 92101

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26 This Settlement Agreement (Settlement Agreement) is entered into between the
27 Commissioner of Financial Protection and Innovation (Commissioner) and Nobel Financial Inc.
28 (Nobel or Respondent) and is made with respect to the following facts.

1 I.

2 Recitals

3 A. The Commissioner has jurisdiction to license and regulate persons and entities engaged
4 in the business of money transmission in California, pursuant to the Money Transmission Act (MTA)
5 (Fin. Code § 2000 et seq.). The Commissioner is authorized to administer and enforce the MTA and
6 the rules issued under title 10 of the California Code of Regulations (Cal. Code Regs.) that regulate
7 the business and activities of money transmitters.

8 B. Nobel has its principal place of business located at 999 Riverview Drive, Suite 201 –
9 Room 224, Totowa, New Jersey 07512. On or around October 8, 2018, the Commissioner issued
10 California money transmitter license number 2617 to Respondent pursuant to Financial Code section
11 2031 and Cal. Code Regs., tit. 10, section 80.167. Respondent’s Nationwide Multistate Licensing
12 System and Registry (NMLS) identification number is 1313855. Respondent obtained a license from
13 the Commissioner to engage in the business of money transmission.

14 C. Richard Louis Mahfouz (Mahfouz), NMLS identification number 1332788, is a control
15 person and president of Respondent.

16 D. Scott Kenneth McClain (McClain), NMLS identification number 2252076, is a control
17 person and chief compliance officer of Respondent.

18 E. Thomas Christian Knobel (Knobel), NMLS identification number 1393254, is a control
19 person of Respondent.

20 F. On or around April 29, 2022, Respondent filed on NMLS its California money services
21 business (MSB) call report for the first quarter (2022 Q1 MSB Call Report). The 2022 Q1 MSB Call
22 Report showed that Respondent did not conduct any in-state money transmitter transactions, i.e.,
23 transactions as a California licensee.

24 G. On or around August 2, 2022, Respondent filed on NMLS its California MSB call
25 report for the second quarter (2022 Q2 MSB Call Report). The 2022 Q2 MSB Call Report showed
26 that Respondent did not conduct any in-state money transmitter transactions, i.e., transactions as a
27 California licensee.

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1 H. On or around November 11, 2022, Respondent filed on NMLS its California MSB call
2 report for the third quarter (2022 Q3 MSB Call Report). The 2022 Q3 MSB Call Report showed that
3 Respondent did not conduct any in-state money transmitter transactions, i.e., transactions as a
4 California licensee.

5 I. On or around February 8, 2023, Respondent filed on NMLS its California MSB call
6 report for the fourth quarter (2022 Q4 MSB Call Report). The 2022 Q4 MSB Call Report showed that
7 Respondent did not conduct any in-state money transmitter transactions, i.e., transactions as a
8 California licensee.

9 J. On or around July 6, 2022, the Commissioner issued a Notice of Intention and
10 Accusation in Support of Order Revoking California Money Transmitter License Pursuant to Financial
11 Code Section 590 (Accusation) against Respondent, after finding that Respondent had not conducted
12 any in-state money transmitter transactions, i.e., transactions as a California licensee, since the fourth
13 quarter of 2021.

14 K. On or around July 10, 2023, Respondent was personally served with the Notice of
15 Intention and Accusation. On July 18, 2023, Respondent requested a one-week extension to file its
16 Notice of Defense with the Commissioner. On July 24, 2023, the Commissioner granted
17 Respondent's request for a one-week extension to file its Notice of Defense. On August 1, 2023,
18 Respondent timely filed its Notice of Defense with the Commissioner. The administrative hearing is
19 currently set to begin before the Office of Administrative Hearings (OAH) on November 28, 2023,
20 OAH case number 2023080286. On September 13, 2023, Respondent filed a request to surrender its
21 license to engage in the business of money transmission in California.

22 L. The Commissioner and Respondent intend to resolve this matter amicably without the
23 necessity of a hearing or further litigation.

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

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1 II.

2 **Terms and Conditions**

3 1. **Purpose.** This Settlement Agreement resolves this matter in a manner that avoids the
4 expense of a hearing and other possible court proceedings, protects consumers, is in the public
5 interest, and is consistent with the purposes, policies, and provisions of the MTA.

6 2. **Conditional Order Accepting Surrender of License.** Subject to Financial Code section
7 2170, the Commissioner retains jurisdiction and Respondent must complete conditional terms listed
8 in subsections a, b, c, and e before the Commissioner can accept surrender of the license.

9 a. Respondent must return the original license to the Commissioner within thirty
10 (30) days of the Effective Date of this Settlement Agreement. Respondent shall mail the original
11 license to “Department of Financial Protection and Innovation” to the attention of “Jonathan Lee,
12 Financial Institutions Manager, Money Transmitter Division” at the Department of Financial
13 Protection and Innovation, 300 S. Spring Street, Suite 15513, Los Angeles, CA 90013-1204. Notice
14 shall be forwarded to Vanessa T. Lu, Senior Counsel, Department of Financial Protection and
15 Innovation, Enforcement Division, via email at Vanessa.Lu@dfpi.ca.gov.

16 b. Respondent shall file with the Commissioner no later than thirty (30) days of
17 the Effective Date of this Settlement Agreement, a report certified by Respondent, showing its
18 outstanding California money transmission liability.

19 c. Respondent shall file with the Commissioner no later than thirty (30) days of
20 the Effective Date of this Settlement Agreement, a report certified by Respondent showing its
21 obligations to escheat any outstanding California money transmission liability.

22 d. Respondent shall comply with the bonding requirements of the California
23 Financial Code as if Respondent continued to be licensed under the MTA. Respondent may petition
24 the Commissioner for release of one-hundred percent (100%) of its money transmitter surety bond
25 within six (6) months of the Effective Date of this Settlement Agreement.

26 e. Respondent will submit final financial statements with balance sheets, income
27 statement of cash flows, schedules of eligible securities, and California Average Daily Transmission
28 Liability (ADTL) Statements showing that all outstanding transmission liability is delivered to the

1 beneficiary, refunded to the California consumer, or escheated to the State Controller’s Office to the
2 Money Transmitter Division within 30 days of the Effective Date of this Settlement Agreement.

3 f. Respondent shall continue to be subject to California Financial Code section
4 453 and to the following sections of the California Financial Code, including any regulations and
5 orders currently in effect or that are hereafter issued from time to time by the Commissioner with
6 respect to those provisions of the MTA, in the same manner and to the same extent as if Respondent
7 continued to be licensed under the MTA:

- 8 (i) section 2038,
- 9 (ii) section 2081,
- 10 (iii) section 2120,
- 11 (iv) section 2124, and
- 12 (v) section 2148.

13 3. Failure to Comply with Settlement Agreement. Nobel agrees that if it fails to comply
14 with the terms of this Settlement Agreement the Commissioner may, in addition to all other available
15 remedies she may invoke under the Money Transmission Act, summarily revoke the money
16 transmitter license of Nobel. Nobel waives any notice and hearing rights to contest such summary
17 revocation which may be afforded under the Money Transmission Act, the California Administrative
18 Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection
19 therewith.

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

27 5. Full and Final Settlement. The Parties hereby acknowledge and agree that this
28 Settlement Agreement is intended to constitute a full and final resolution of the matter described in it.

1 The Commissioner will not bring any further action or proceeding concerning the matter unless she
2 discovers violations by Respondent that do not form the basis for this Settlement Agreement,
3 including violations knowingly concealed from the Commissioner.

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

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

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

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

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

26 11. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or successors
27 in interest.

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

10 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
11 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the
12 Parties. Waiver of a provision of this Settlement Agreement will not be deemed a waiver of
13 any other provision.

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

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

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

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

5 18. Voluntary Agreement. Respondent enters into this Settlement Agreement voluntarily
6 and without coercion and acknowledges that no promises, threats, or assurances have been made by
7 the Commissioner or any officer, or agent thereof, about this Settlement Agreement. The Parties each
8 represent and acknowledge that he, she, or it is executing this Settlement Agreement completely
9 voluntarily and without any duress or undue influence of any kind from any source.

10 19. Notice. Any notices required under the Settlement Agreement shall be provided to
11 each party at the following addresses:

12 To Respondent: Nobel Financial Inc.
13 Attention: Peter Sinclair
14 Clerkin, Sinclair & Mahfouz, LLP
15 3333 Camino Del Rio S., Suite 120
16 San Diego, CA 92108
17 psinclair@clerkinlaw.com

18 To the Commissioner: Vanessa T. Lu, Senior Counsel
19 Department of Financial Protection and Innovation
20 1455 Frazee Road, Suite 315
21 San Diego, CA 92108
22 Vanessa.Lu@dfpi.ca.gov

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

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

27 22. Effective Date. This Settlement Agreement shall become final and effective when
28 signed by all parties and delivered by the Commissioner’s counsel via e-mail to Respondent’s
counsel, Peter Sinclair, psinclair@clerkinlaw.com.

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1 23. Settlement Authority. Each signatory hereto covenants that he or she possesses all
2 necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the
3 obligations set forth herein.

4 24. No Presumption Against Drafter. In that the Parties have had the opportunity to draft,
5 review, and edit the language of this Settlement Agreement, no presumption for or against any party
6 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
7 relating to, connected to, or involving this Settlement Agreement. Accordingly, the Parties waive the
8 benefit of Civil Code section 1654 and any successor or amended statutes, providing that in cases of
9 uncertainty, language of a contract should be interpreted most strongly against the party who caused
10 the uncertainty to exist.

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

13 Dated: October 13, 2023

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



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15 By

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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20 Dated: October 12, 2023

By

RICHARD LOUIS MAHFOUZ
President
Nobel Financial Inc.

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22 APPROVED AS TO FORM:
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27 _____
Peter Sinclair, Esq.
Counsel for Respondent
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