

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SOPHIA C. KIM (CA BAR NO. 265649)
Corporations Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7594
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of THE COMMISSIONER OF) File No.: 963-2235
12 BUSINESS OVERSIGHT OF THE STATE OF)
13 CALIFORNIA,) SETTLEMENT AGREEMENT
14 Complainant,)
15 vs.)
16 CONQUEST ESCROW, INC.,)
17 Respondent.)
18)

19
20
21
22
23
24
25 This Settlement Agreement is entered into between Respondent Conquest Escrow, Inc.
26 (“Conquest”) and Complainant the Commissioner of Business Oversight (“Commissioner”),¹ and is
27 made with respect to the following facts:

28 _____
¹ As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight.

RECITALS

A. Conquest Escrow, Inc. (“Conquest”) is an escrow agent holding a valid license issued by the Commissioner pursuant to the Escrow Law (Section 17000 et seq. of the California Financial Code) and has its principal place of business located at 5200 E. Gage Avenue, Bell, California 90201.

B. Lorena Y. Martinez (“Martinez”) is at all relevant times herein an escrow officer employed by Conquest with a principal place of business located at 5200 E. Gage Avenue, Bell, California 90201.

C. On or around August 18, 2014, the Commissioner issued to Conquest the following: Statement of Facts in Support of Order to Discontinue Violations Pursuant to California Financial Code Section 17602 and Notice of Intent to Make Order Final; and Order to Discontinue Violations Pursuant to California Financial Code Section 17602 (“Order to Discontinue Violations”).

D. On or around August 26, 2014, Conquest was served by the Commissioner with the Order to Discontinue Violations.

E. On or around September 12, 2014, Conquest timely filed a Notice of Defense with the Commissioner in the matter regarding the Order to Discontinue Violations.

It is the intention and desire of the parties to resolve these matters without the necessity of a hearing and/or other litigation.

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

TERMS AND CONDITIONS

1. Purpose. This Settlement Agreement is entered into for the purpose of judicial economy and expediency, and to avoid the expense of a hearing, and possible further court proceedings.

2. Admission. Conquest hereby admits to the allegations contained in the Order to Discontinue Violations. The admissions of Conquest herein are solely for the limited purposes of this proceeding and any future proceedings that may be initiated by or brought before the Commissioner against Conquest. It is the intent and understanding between the parties that this

1 Settlement Agreement, and particularly the admissions of Conquest herein, shall not be binding or
2 admissible against Conquest in any action(s) brought against Conquest by any third party.

3 3. Order Suspending. Conquest hereby agrees to the immediate issuance by the
4 Commissioner of an order suspending Conquest’s escrow agent’s license for a period of two weeks.
5 The suspension shall commence on November 10, 2014, and continue through the close of business
6 on November 24, 2014. In connection with the suspension, Conquest shall file with the
7 Commissioner by the close of business on November 7, 2014, a list of all open escrows with escrow
8 numbers and escrow party names along with a copy of the signed escrow instructions generated by
9 Conquest and/or signed deposit receipt(s), if any, or a copy of the Conquest generated escrow
10 instructions and the transmittal letters to the parties for the last opened escrow. For purposes of this
11 Settlement Agreement, “open escrow” shall mean an escrow wherein the parties to such escrow
12 have already entered into a binding agreement and monies and/or escrow instructions prepared by
13 Conquest have been submitted to Conquest regarding the transaction, or escrow instructions
14 prepared by Conquest regarding the transaction have been transmitted to the parties. A copy of the
15 Order Suspending Escrow Agent’s License is attached and incorporated herein as **Exhibit A**.

16 4. Finality of Order. Conquest further agrees to the finality of the Order to Discontinue
17 Violations Pursuant to California Financial Code Section 17602 issued on August 18, 2014, a copy
18 of which is attached and incorporated herein as **Exhibit B**.

19 5. Waiver of Hearing Rights. Conquest acknowledges its right to an administrative
20 hearing under California Financial Code sections 17602, 17604, and 17608 in connection with the
21 Order to Discontinue Violations and suspension, and hereby waives its right to a hearing, and to any
22 reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the
23 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
24 provision of law in connection with this matter.

25 6. Full and Final Settlement. The parties hereby acknowledge and agree that this
26 Settlement Agreement is intended to constitute a full, final and complete resolution of the Order to
27 Discontinue Violations and that no further proceedings or actions will be brought by the
28 Commissioner in connection with these matters either under the Escrow Law or any other provision

1 of law, excepting therefrom any proceeding or action if such proceeding or action is based upon
2 facts not presently known to the Commissioner or which were knowingly concealed from the
3 Commissioner by Conquest, or is based upon failure to abide by any of the terms in this Settlement
4 Agreement.

5 7. Commissioner’s Duties. The parties acknowledge and agree that nothing contained
6 in this Settlement Agreement shall operate to limit the Commissioner’s ability to assist any other
7 agency (city, county, state or federal) with any prosecution, administrative, civil or criminal,
8 brought by any such agency against Conquest or any other person based upon any of the activities
9 alleged in these matters or otherwise.

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

12 9. Future Actions By Commissioner. This Settlement Agreement may be revoked and
13 the Commissioner may pursue any and all remedies available under law against Conquest if the
14 Commissioner later discovers that Conquest knowingly or willfully withheld information used and
15 relied upon in this Settlement Agreement.

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

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

1 12. Presumption from Drafting. In that the parties have had the opportunity to draft,
2 review and edit the language of this Settlement Agreement, no presumption for or against any party
3 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
4 relating to, connected to, or involving this Settlement Agreement. Accordingly, the parties waive
5 the benefit of California Civil Code section 1654 and any successor or amended statute, providing
6 that in cases of uncertainty, language of a contract should be interpreted most strongly against the
7 party who caused the uncertainty to exist.

8 13. Voluntary Agreement. Conquest enters into this Settlement Agreement voluntarily
9 and without coercion and acknowledges that no promises, threats or assurances have been made by
10 the Commissioner or any officer, or agent thereof, about this Settlement Agreement.

11 14. Waiver, Modification, and Qualified Integration. The waiver of any provision of
12 this Settlement Agreement shall not operate to waive any other provision set forth herein, and any
13 waiver, amendment and/or change to the terms of this Settlement Agreement must be in writing and
14 signed by the parties.

15 15. Counterparts. The parties agree that this Settlement Agreement may be executed in
16 one or more separate counterparts, each of which when so executed, shall be deemed an original. A
17 fax signature shall be deemed the same as an original signature. Such counterparts shall together
18 constitute and be one and the same instrument.

19 16. Headings and Governing Law. The headings to the paragraphs of this Settlement
20 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the
21 construction or interpretation of the provisions hereof. This Settlement Agreement shall be
22 construed and enforced in accordance with and governed by California law.

23 17. Effective Date. This Settlement Agreement shall not become effective until signed
24 and delivered by all parties.

25 ///

26 ///

27 ///

28 ///

1 18. Notice. Any notice required under this Settlement Agreement shall be addressed as
2 follows:

3 To Conquest: Kenneth Gaugh, Esq.
4 The Law Offices of Kenneth Gaugh
5 3142 Pacific Coast Highway
6 Torrance, California 90505

7 To the Commissioner: Sophia C. Kim
8 Corporations Counsel
9 Department of Business Oversight
10 320 West 4th Street, Suite 750
11 Los Angeles, California 90013-2344

12 19. Authority to Execute. Each signator hereto covenants that he/she possesses all necessary
13 capacity and authority to sign and enter into this Settlement Agreement.

14 Dated: 11/3/14 JAN LYNN OWEN
15 Commissioner of Business Oversight

16 By _____
17 MARY ANN SMITH
18 Deputy Commissioner
19 Enforcement Division

20 Dated: 10/31/14 CONQUEST ESCROW, INC.

21 By _____
22 GEORGIA G. CERVANTES
23 President

24 **APPROVED AS TO FORM AND CONTENT:**

25 _____
26 KENNETH GAUGH, ESQ.
27 The Law Offices of Kenneth Gaugh,
28 Counsel for Conquest Escrow, Inc.