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

11 In the Matter of:) NMLS ID Nos.: 32381 and 1238106
12)
13 THE COMMISSIONER OF BUSINESS) OAH Case No. L-2015080305
OVERSIGHT,)
14)
15 Complainant,)
16 v.) AMENDED SETTLEMENT AGREEMENT
17)
18 ASSURITY CAPTIAL, LLC; KOUROSH)
KAVOOSI (a/k/a CHRISTOPHER KAVOOSI),)
19 Respondents.)
20)
21)

22 This Amended Settlement Agreement (“Amended Settlement Agreement” or “Amended
23 Agreement”) shall be binding on the Commissioner of Business Oversight, and its officers,
24 employees, agents, representatives, successors, and attorneys (collectively, the “Commissioner”) and
25 Assurity Capital, LLC (“Assurity”), and its subsidiaries, officers, shareholders, employees, agents,
26 representatives, successors, insurers, attorneys, affiliated and related entities, principals, assignors,
27 and assignees, and Kourosh Kavooosi (a/k/a Christopher Kavooosi) (“Kavooosi”). The Commissioner,
28 Assurity and Kavooosi shall collectively be referred to as the “Parties.”

RECITALS

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2 A. On or around April 22, 2009, the Bureau of Real Estate (formerly the Department of
3 Real Estate) revoked Kavooosi’s real estate salesperson license. Prior to revoking his license, the
4 BRE provided Kavooosi with a restricted license pursuant to a Stipulation (the “BRE Stipulation”).

5 B. On or around November 17, 2010, Kavooosi filed an application for a mortgage loan
6 originator (“MLO”) license with the Commissioner (the “Application”). The Application was
7 submitted to the Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing
8 System and Registry (“NMLS”).

9 C. The Application contained the following question: “Has any State or federal
10 regulatory agency or foreign financial regulatory authority ever . . . revoked your registration or
11 license.” Kavooosi answered “Yes.”

12 D. On or about December 14, 2010, the Commissioner approved Kavooosi’s MLO
13 license.

14 E. On or around September 28, 2011, the State of New Hampshire Banking Department
15 issued an Order to Show Cause and Cease and Desist naming Kavooosi as a Respondent in his
16 individual capacity, Case No. 11-170 (“New Hampshire Banking Order”). The New Hampshire
17 Banking Order alleged that Kavooosi transacted business in New Hampshire as a mortgage loan
18 originator without a license in violation of Revised Statutes Annotated (“RSA”) 397-A:3, II and
19 RSA 397-A:14, IV(d). Kavooosi was ordered to cease and desist from violating RSA Chapter 397-A
20 and rules or orders thereunder.

21 F. Kavooosi was served with a copy of the New Hampshire Banking Order on October
22 3, 2011. Kavooosi failed to amend his NMLS Application with the Commissioner, in violation of the
23 Commissioner’s rules and regulations, to disclose the New Hampshire Banking Order.

24 G. On May 1, 2012, the NMLS system generated a note to Kavooosi, informing him that
25 the forms had changed, and that he needed to update the forms to his state regulator by August 1,
26 2012. Kavooosi did not amend his Application until November 1, 2012.

27 H. Kavooosi amended his MLO Application three times in early November 2012; twice
28 on November 1, 2012, and once on November 6, 2012. Each Application contained the following

1 questions:

- 2 a) “Has any State or federal regulatory agency or foreign financial regulatory authority
3 or self-regulatory organization (SRO) ever . . . revoked your registration or license?”
4 b) “Is there a pending regulatory action proceeding against you . . .”

5 I. Although the BRE revoked his real estate sales person license and the New
6 Hampshire Banking Order remained outstanding, Kavooosi answered each question “No” and
7 submitted each verified Application under penalty of perjury.

8 J. On November 9, 2012, the State of New Hampshire Banking Division issued an
9 Order Dismissing the September 28, 2011 New Hampshire Banking Order as to Kavooosi.

10 K. On or about December 4, 2014, Assurity, a California limited liability company,
11 submitted an application for a finance lender license with the Commissioner (File No. 60DBO-
12 43785) using NMLS, hereinafter (“CFL Application”), pursuant to Financial Code section 22101.
13 The CFL Application identified Kavooosi as Assurity’s sole officer and director.

14 L. As part of the CFL Application, Kavooosi was required to disclose any prior
15 regulatory actions. Specifically, the CFL Application asks the following question:

16 “Has any State or federal regulatory agency or foreign financial regulatory authority or self-
17 regulatory organization (SRO) ever . . . revoked your registration or license?”

18 M. As sole owner, on behalf of Assurity, Kavooosi answered “No” to this question and
19 submitted the verified CFL Application under penalty of perjury.

20 N. On or around January 6, 2015, Kavooosi amended his Application, in response to a
21 note received by the Department on NMLS requesting that he update his Application. Specifically,
22 he changed his answer to the following question from “No” to “Yes.”

23 “Has any State or federal regulatory agency or foreign financial regulatory authority or self-
24 regulatory organization (SRO) ever . . . revoked your registration or license?”

25 O. The NMLS system requires licensees and applicants to provide an explanation
26 surrounding any disclosure questions that are answered “Yes.” On or around January 6, 2015,
27 Kavooosi provided the following explanation regarding the BRE license revocation, and attached an
28 unexecuted, preliminary version of the BRE Stipulation:

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In 2005 I passed the DRE Broker exam. Due to an open court case the DRE offered a restricted sales license, pending broker of record reviews and reports to DRE in order to remove the restriction and eligibility of a Broker License. I accepted the DRE terms and in the meanwhile the open case in court was finalized in my favor and dismissed. In late 2007 early 2008 facing the Real Estate and mortgage melt down company closed and the broker in charge found employment elsewhere. During this period the supervisory reports by a Broker were not submitted to DRE resulting in current status. LOE and supporting documents attached. Thank you

P. This explanation is misleading. The final, executed copy of the BRE Stipulation and Order Suspending License and Revoking license clearly show that Kavooosi’s BRE license was revoked due to his failure to provide proof of compliance with a provision in the BRE Stipulation, namely, failure to attend substance abuse classes. Furthermore, the documents Kavooosi uploaded in support of his explanation were not final and were not complete and were therefore misleading.

Q. On or around January 7, 2015, Kavooosi uploaded BRE documents which show that his BRE license was revoked due to his failure to attend substance abuse classes. Kavooosi failed to amend the explanation in his Application to make it non-misleading.

R. On or around June 29, 2015, the Commissioner issued a Notice of Intention to Issue Order Denying California Finance Lender License and related documents (“Statement of Issues”). The Commissioner served a copy of the Statement of Issues and related documents on Assurity’s registered agent for service of process, Legalzoom.com, Inc., by personal service, on July 23, 2015.

S. On or around August 4, 2015, Kavooosi requested an administrative hearing on behalf of Assurity regarding the Statement of Issues.

T. On or around September 4, 2015, the Parties entered into a Settlement Agreement (“September 4, 2015 Settlement Agreement”). Simultaneous with execution of the September 4, 2015 Settlement Agreement, the Commissioner issued an Order Pursuant to Financial Code Section 22169, subdivision (a)(1) (“Order”), captioned *In the Matter of Commissioner of Business Oversight, Complainant v. Assurity Capital, LLC; Kouros Kavooosi (a/k/a Christopher Kavooosi)*, Respondents, before the Department of Business Oversight. A true and correct copy of the September 4, 2015 Settlement Agreement and Order is attached hereto and incorporated herein by

1 reference as **Exhibit 1**.

2 U. The Parties now wish to amend the September 4, 2015 Settlement Agreement.
3 Simultaneous with execution of this Amended Settlement Agreement, the Commissioner issued an
4 Amended Order Pursuant to Financial Code Section 22169, subdivision (a)(1) (“Amended Order”),
5 captioned *In the Matter of Commissioner of Business Oversight, Complainant v. Assurity Capital,*
6 *LLC; Kourosh Kavooosi (a/k/a Christopher Kavooosi)*, Respondents, before the Department of
7 Business Oversight. A true and correct copy of the Amended Order is attached hereto and
8 incorporated herein by reference as **Exhibit 2**.

9 V. The Commissioner finds that this action is appropriate in the public interest and
10 consistent with the purposes fairly intended by the policy and provisions of this law.

11 W. It is the intention and desire of the Parties to resolve this matter without the necessity
12 of a hearing and/or other litigation.

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

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16 **TERMS AND CONDITIONS**

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

20 2. **No Admission or Denial of Liability**. Kavooosi, by entering into this Amended
21 Settlement Agreement, does not admit or deny any of the allegations set forth in this Amended
22 Settlement Agreement, the Amended Order, or the Statement of Issues.

23 3. **Assurity’s Withdrawal of Finance Lender License Application**. As part of the
24 September 4, 2015 Settlement Agreement, Assurity withdrew its CFL Application with the
25 Commissioner on NMLS on September 28, 2015. The Commissioner consented to Assurity’s
26 withdrawal of the CFL Application.

27 4. **Assurity’s Waiver of Hearing Rights**. As part of the September 4, 2015 Settlement
28 Agreement, Assurity withdrew its request for an administrative hearing on the Statement of Issues,

1 made on or around August 4, 2015.

2 5. **Kavoosi’s Waiver of Hearing Rights.** Kavoosi acknowledges his right to an
3 administrative hearing under the California Finance Lenders Law (“CFL”) in connection with the
4 Amended Order and hereby waives that right to a hearing, and to any reconsideration, appeal, or
5 other rights which may be afforded pursuant to the CFL, the California Administrative Procedure
6 Act, the California Code of Civil Procedure, or any other provision of law in connection with these
7 matters.

8 6. **Permanent Bar From Any Position of Management, Control, or Supervision of**
9 **any Finance Lender, Broker, or Mortgage Loan Originator Pursuant to Financial Code**
10 **Section 22169, subdivision (a)(1).** Kavoosi voluntarily stipulates to a permanent bar from any
11 position of management, control, or supervision of any finance lender, broker, or mortgage loan
12 originator, or any other persons. Nothing in this provision prohibits or bars Kavoosi from any other
13 position of employment of any finance lender, broker, or mortgage loan originator, and Financial
14 Code section 22169, subdivision (d) shall not apply.

15 7. **Issuance of Amended Order Pursuant to Financial Code Section 22169,**
16 **subdivision (a)(1).** The Parties agree to the issuance of an Amended Order Issued Pursuant to
17 Financial Code section 22169, subdivision (a) permanently barring Kavoosi from any position of
18 management, control, or supervision of any finance lender, broker, mortgage loan originator, or any
19 other persons (“Amended Order”) to become effective upon the execution of the Agreement. A true
20 and correct copy of the Amended Order is attached hereto and incorporated herein by reference as
21 **Exhibit 2.**

22 8. **Failure to Comply With Agreement.** Any breach of this Amended Settlement
23 Agreement or the Amended Order shall be cause for the Commissioner to immediately revoke
24 any licenses held by Kavoosi, bar Kavoosi from any position of employment from any finance
25 lender, broker or mortgage loan originator, or any other person, and/or deny any pending
26 application(s) of Kavoosi, his successors and assigns, or any companies owned or controlled by
27 Kavoosi, by whatever names they might be known. Kavoosi hereby waives any notice and
28 hearing rights to contest such revocations, bars, and/or denial(s) which may be afforded under the

1 CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
2 other provision of law in connection therewith.

3 9. **Future Violations.** If the Commissioner makes a finding that Kavooosi has violated
4 or is violating any provision of the CRMLA or CFL, or any rules and regulations thereunder, or any
5 Order of the Commissioner, the Commissioner may, immediately revoke any licenses held by
6 Kavooosi, bar Kavooosi from any position of employment from any finance lender, broker or
7 mortgage loan originator, or any other person, and/or deny any pending application(s) of Kavooosi,
8 his successors and assigns, or any companies owned or controlled by Kavooosi, by whatever
9 names they might be known. Kavooosi hereby waives any notice and hearing rights to contest such
10 revocations, bars, and/or denial(s) which may be afforded under the CFL, the California
11 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of
12 law in connection therewith.

13 10. **MLO License.** The Commissioner hereby agrees that except as set forth in this
14 Amended Settlement Agreement, she shall not revoke Kavooosi’s MLO license nor take any further
15 action based on the violations cited in the Statement of Issues and the Amended Order.

16 11. **Amended Settlement Agreement Coverage.** The Parties hereby acknowledge and
17 agree that this Amended Settlement Agreement is intended to constitute a full, final and complete
18 resolution of the Statement of Issues, excepting therefrom any proceeding or action if such
19 proceeding or action is based upon facts not presently known to the Commissioner. The Parties
20 further acknowledge and agree that nothing contained in this Amended Settlement Agreement shall
21 operate to limit the Commissioner’s ability to assist any other agency, (city, county, state or federal)
22 with any prosecution, administrative, civil or criminal, brought by any such agency against Kavooosi
23 based upon any of the activities alleged in these matters or otherwise.

24 12. **Independent Legal Advice.** Each of the Parties represents, warrants, and agrees that
25 it has had an opportunity to seek independent advice from its attorney(s) and/or representatives with
26 respect to the advisability of executing this Amended Settlement Agreement.

27 13. **No Other Representation.** Each of the Parties represents, warrants, and agrees that
28 in executing this Amended Settlement Agreement it has relied solely on the statements set forth

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

10 14. **Modifications and Qualified Integration.** No amendment, change or modification
11 of this agreement shall be valid or binding to any extent unless it is in writing and signed by all of
12 the Parties affected by it.

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

19 16. **No Presumption From Drafting.** In that the Parties have had the opportunity to
20 draft, review and edit the language of this Amended Settlement Agreement, no presumption for or
21 against any party arising out of drafting all or any part of this Amended Settlement Agreement will
22 be applied in any action relating to, connected, to, or involving this Amended Settlement
23 Agreement. Accordingly, the Parties waive the benefit of Civil Code section 1654 and any
24 successor or amended statute, providing that in cases of uncertainty, language of a contract should
25 be interpreted most strongly against the party who caused the uncertainty to exist.

26 17. **Voluntary Agreement.** Kavoosi enters into this Amended Settlement Agreement
27 voluntarily and without coercion and acknowledges that no promises, threats or assurances have
28 been made by the Commissioner or any officer, or agent thereof, about this Amended Settlement

1 Agreement. The Parties each represent and acknowledge that he, she or it is executing this
2 Amended Agreement completely voluntarily and without any duress or undue influence of any
3 kind from any source.

4 18. **Authority For Settlement.** Each party warrants and represents that such party is
5 fully entitled and duly authorized to enter into and deliver this Amended Agreement. In
6 particular, and without limiting the generality of the foregoing, each party warrants and
7 represents that it is fully entitled to enter into the covenants, and undertake the obligations set
8 forth herein.

9 19. **Waiver.** The waiver of any provision of this Amended Settlement Agreement shall
10 not operate to waive any other provision set forth herein, and any waiver, amendment and/or change
11 to the terms of this Amended Settlement Agreement must be in writing and signed by the Parties.

12 20. **Counterparts.** This Amended Settlement Agreement may be executed in any
13 number of counter-parts by the Parties, and when each party has signed and delivered at least
14 one such counterpart to the other party, each counterpart shall be deemed an original and taken
15 together shall constitute one and the same Amended Settlement Agreement.

16 21. **Governing Law.** This Amended Settlement Agreement shall be construed and
17 enforced in accordance with and governed by California law.

18 22. **Effective Date.** This Amended Settlement Agreement shall not become effective
19 until signed and delivered by all Parties.

20 23. **Capacity to Contract.** Each signator hereto covenants that he/she possesses all
21 necessary capacity and authority to sign and enter into this Amended Settlement Agreement.

22 24. **Public Record.** Kavoosi hereby acknowledges that this Amended Settlement
23 Agreement and Amended Order will be a matter of public record.

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Dated: 2/2/16

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 1/12/16

KOUROSH KAVOOSI

By _____
Kourosh Kavooosi

APPROVED AS TO FORM AND CONTENT:

DENNIS H. DOSS
Doss Law
Counsel for Kourosh Kavooosi

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