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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of the Accusation of THE) OAH NO.: 2012090659
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) File No.: 963-2347
13)
Complainant,) SETTLEMENT AGREEMENT
14)
vs.) TRIAL DATE: March 18 & 19, 2013
15)
16 ESCROW AVENUE, INC. and PAUL M.) ASSIGNED TO:
POUND,)
17)
18 Respondents.)

19 This Settlement Agreement is entered into between Respondents Escrow Avenue, Inc.
20 (“Escrow Avenue”) and Paul M. Pound (“Pound”) on the one hand, and Complainant the California
21 Corporations Commissioner ("Commissioner") on the other hand, and is made with respect to the
22 following facts:

23 **RECITALS**

- 24 A. Escrow Avenue is a corporation in good standing, duly formed and existing pursuant
25 to the laws of the State of California, and authorized to conduct business in the State of California.
26 B. Escrow Avenue is an escrow agent licensed by the Commissioner pursuant to the
27 Escrow Law of the State of California (California Financial Code § 17000 et seq.). Escrow Avenue
28 has its principal place of business located at 280 Highway 173, Lake Arrowhead, California 92325.

1 C. Pound is, and was at all times relevant to the Accusation described in paragraph D
2 below (“Accusation”), the president and sole shareholder of Escrow Avenue.

3 D. On July 10, 2012, Escrow Avenue and Pound were personally served by the
4 Commissioner with a Notice of Intention to Issue Order to Revoke Escrow Agent’s License and To
5 Issue Order Pursuant to Section 17423 (Bar from Employment, Management or Control of an
6 Escrow Agent), Accusation and accompanying documents dated July 9, 2012. Escrow Avenue and
7 Pound have filed a Notice of Defense with the Commissioner. A two-day hearing before the Office
8 of Administrative Hearings is currently scheduled to commence on March 18, 2013.

9 E. It is the intention and desire of the parties to resolve this matter without the necessity
10 of a hearing and/or other litigation.

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

13 **TERMS AND CONDITIONS**

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

16 2. Pound, without admitting or denying any of the allegations contained in the
17 Accusation, hereby agrees to the issuance by the Commissioner of an order suspending Pound from
18 any position of employment, management or control of an escrow agent for a period of five years.
19 The suspension order shall become effective upon execution of this Settlement Agreement. A copy
20 of the suspension order is attached and incorporated herein as Exhibit A.

21 3. The parties hereby acknowledge that the trust account shortage alleged in the
22 Accusation has been corrected by Escrow Avenue and Pound.

23 4. Pound acknowledges his right to an administrative hearing under Financial Code
24 section 17423 in connection with the suspension and hereby waives that right to a hearing, and to
25 any reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the
26 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
27 provision of law in connection with this matter herein.
28

1 5. The Commissioner hereby agrees that Pound shall be allowed 90 days within which
2 to sell Escrow Avenue. The Commissioner further agrees to extend the 90 day period up to a further
3 30 days in order for Pound to complete any sale of Escrow Avenue, or good faith negotiations to sell
4 Escrow Avenue, that may be pending at the end of the initial 90 day period, which period shall
5 commence upon execution of this Settlement Agreement. It is understood between the parties that
6 Pound is selling Escrow Avenue to Deborah Thompson, the current escrow manager of Escrow
7 Avenue. Pound agrees to immediately surrender the escrow agent’s license of Escrow Avenue to the
8 Commissioner in the event there is no sale or good faith negotiations to sell Escrow Avenue pending
9 at the expiration of the initial 90 days, or if Pound is unable to complete any sale of Escrow Avenue
10 within any extension granted by the Commissioner pursuant to this paragraph.

11 6. Escrow Avenue and Pound hereby acknowledge that pursuant to Financial Code
12 Section 17213, the sale of Escrow Avenue as an ongoing independent escrow agent business must be
13 approved by the Commissioner through the filing of an Application for Change of Ownership
14 (“Application”).

15 7. Escrow Avenue and Pound understand that if Escrow Avenue is sold as an ongoing
16 independent escrow agent business, Escrow Avenue must be in compliance with the Escrow Law, to
17 include net worth and liquid asset requirements, annual audit reporting, and books and records
18 maintenance prior to approval of any such Application.

19 8. Except as otherwise provided in paragraph 7 above, the Commissioner hereby agrees
20 to process any Application filed with the Commissioner pursuant to the contemplated sale of Escrow
21 Avenue described in paragraph 5 above in an expeditious manner, which shall include prompt notice
22 to such applicant of any deficiency in the completeness of the Application or of any potential
23 problems with the applicant. Pound agrees that in the event that the Commissioner abandons or
24 denies any Application described in paragraph 6 above as provided by the Escrow Law, and the time
25 set forth in paragraph 5 above has passed, Pound shall immediately surrender the escrow agent’s
26 license of Escrow Avenue to the Commissioner.

27 9. Escrow Avenue and Pound agree that if Escrow Avenue’s escrow agent's license is
28 not surrendered to the Commissioner as required by paragraphs 5 and/or 8 above within 15 days

1 after written notice to Escrow Avenue and Pound at their addresses last provided to the
2 Commissioner, the license shall be automatically revoked and any rights to a hearing regarding such
3 revocation are hereby waived.

4 10. Notwithstanding paragraph 3 above, during the time period set forth in paragraph 5
5 above, and including any extensions granted thereunder by the Commissioner, Pound, as the owner
6 of Escrow Avenue, shall be allowed to take such steps as are necessary to sell Escrow Avenue as
7 contemplated by this Settlement Agreement. However, under no circumstances, shall such steps
8 include Pound processing any escrow transactions, signing on the trust account, or in any manner
9 supervising Escrow Avenue personnel.

10 11. Escrow Avenue and Pound hereby acknowledge and understand that Financial Code
11 Section 17600(b) requires a closing audit report to be filed with the Commissioner within 105 days
12 of the written notice to the Commissioner of the surrender of Escrow Avenue's escrow agent's
13 license. Escrow Avenue and Pound agree that if they fail to file the closing audit as required by
14 Section 17600(b), any surrender of Escrow Avenue's escrow agent's license as provided for in
15 paragraphs 5 or 8 above shall not become effective and the escrow agent's license of Escrow Avenue
16 shall be automatically revoked and any rights to a hearing regarding such revocation and to any
17 reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the
18 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
19 provision of law in connection therewith are hereby waived.

20 12. Except as otherwise provided herein, the parties agree that this Settlement Agreement
21 shall have the effect of dismissing that portion of the Notice of Intention relating to the revocation of
22 Escrow Avenue's escrow agent's license. The dismissal shall become effective upon either (i) the
23 approval of any Application described in paragraph 6 above, or (ii) the surrender of Escrow
24 Avenue's escrow agent's licenses as provided for in paragraphs 5 and/or 8 above.

25 13. The parties hereby acknowledge and agree that this Settlement Agreement is intended
26 to constitute a full, final and complete resolution of this matter. The parties further acknowledge and
27 agree that nothing contained in this Settlement Agreement shall operate to limit the Commissioner's
28 ability to assist any other agency, (county, state or federal) with any prosecution, administrative,

1 civil or criminal, brought by any such agency against Escrow Avenue and/or Pound or any other
2 person based upon any of the activities alleged in this matter or otherwise.

3 14. Each of the parties represents, warrants, and agrees that it has received independent
4 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
5 Settlement Agreement.

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

16 16. This Settlement Agreement is the final written expression and the complete and
17 exclusive statement of all the agreements, conditions, promises, representations, and covenants
18 between the parties with respect to the subject matter hereof, and supercedes all prior or
19 contemporaneous agreements, negotiations, representations, understandings, and discussions
20 between and among the parties, their respective representatives, and any other person or entity, with
21 respect to the subject matter covered hereby.

22 17. In that the parties have had the opportunity to draft, review and edit the language of
23 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
24 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
25 involving this Settlement Agreement. Accordingly, the parties waive the benefit of California Civil
26 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
27 language of a contract should be interpreted most strongly against the party who caused the
28 uncertainty to exist.

