

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 MARLOU de LUNA (CA BAR NO. 162259)
Senior Corporations Counsel
4 BLAINE A. NOBLETT (CA BAR NO. 235612)
Senior Corporations Counsel
5 DEPARTMENT OF BUSINESS OVERSIGHT
320 West 4th Street, Suite 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-1396 Fax: (213) 576-7181

7 Attorneys for Plaintiff

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF)
12 CALIFORNIA, by and through the California)
13 Corporations Commissioner,)

14 Plaintiff,)

15 vs.)

16 PROTEGE FINANCIAL & INSURANCE)
17 SERVICE, INC., aka PROTÉGÉ FINANCIAL)
& INSURANCE SERVICES, INC., aka)
18 PROTEGE FINANCIAL & INSURANCE)
19 SERVICES, INC., doing business as SENIOR)
20 RETIREMENT SPECIALISTS and TEACHER)
21 RETIREMENT SPECIALISTS; SAXE-)
COBURG INSURANCE SOLUTIONS, LLC;)
22 SKYLINE PICTURES, LLC; NOT)
23 FORGOTTEN, LLC; WINDSOR PICTURES,)
24 LLC; MICHELLE KENEN SEWARD, as an)
individual; DROR SOREF, as an individual;)
SCOTT WALTER FOULK, as an individual;)
and DOES 1 through 50, inclusive,)

25 Defendants.)
26)
27)
28)

CASE NO.: BC492536

**AMENDED SETTLEMENT AGREEMENT
FOR ENTRY OF FINAL JUDGMENT OF
PERMANENT INJUNCTION AND
RESTITUTION BETWEEN PLAINTIFF
AND DEFENDANTS SAXE-COBURG
INSURANCE SOLUTIONS, LLC;
MICHELLE KENEN SEWARD; DROR
SOREF; AND SCOTT WALTER FOULK**

Department: '12'
Judge: Hon. Barbara A. Meiers

Trial Date: April 21, 2014
Action Filed: September 20, 2012

AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
LLC, et al.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

F. Defendants hereby waive entry of Findings of Fact and Conclusions of Law under Code of Civil Procedure section 632 and all rights to appeal the entry of the Final Judgment.

///
///
///

1 effect, authorizing her to conduct business as an investment adviser or unless
2 Seward is exempted from the requirement of obtaining a certificate.

3 H. Corporations Code section 25530, subdivision (c) of the Corporate Securities Law
4 allows for victims being paid restitution to have judgments directly enforceable by them. Therefore,
5 it is additionally adjudged and decreed that the victims listed on **Exhibit B** (the “Restitution
6 Payment Sheet”), attached and incorporated herein as **Exhibit B**, are now “judgment creditors” of
7 this Final Judgment.

8 Defendants agree to the Court’s entry of the Final Judgment, providing for civil restitution
9 for the judgments listed on the Restitution Payment Sheet in the amount of approximately \$17.4
10 million, less any amount paid to the judgment creditors from any other source, together with interest
11 thereon at the legal rate per annum until said amounts are paid in full, apportioned as follows.
12 Nothing in this Paragraph H or the apportionments set forth in the Restitution Payment Sheet shall
13 be considered an admission of liability or responsibility or a finding of fact as to any Defendant with
14 respect to any judgment creditor. Any funds paid to a judgment creditor, from any source, shall
15 reduce and partially satisfy the total amount owed. No judgment creditor listed on this Restitution
16 Payment Sheet shall retain or be entitled to obtain more than 100% of the funds identified on the
17 Restitution Payment Sheet. The apportionments are:

18
19 (a) Of the \$17.4 million, the Seward Defendants, Soref, and Foulk shall be jointly and
20 severally liable for \$5,813,742.54. When the Commissioner or a judgment creditor collects
21 funds for the benefit of the judgment creditors identified on the Restitution Payment Sheet,
22 there shall be an allocation of such funds in a pro rata fashion by family unit (husband and
23 wife or family trust consolidated). Monies collected by the People shall first be used to pay
24 the joint and several liability described in this subparagraph.

25 (b) Of the \$17.4 million, the Seward Defendants shall be severally liable for
26 \$5,810,870.83, which amount shall be attributable to judgment creditors who have voted to
27 participate in the Creditors’ Trust created by Protege Financial and Saxe-Coburg, as
28 ~~identified on the Restitution Payment Sheet. This amount of \$5,810,870.83 equates~~

AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
LLC, et al.

1 approximately to the sum due, severally, for Soref and Foulk due to the fact that the
2 judgment creditors included for the Seward Defendants are also addressed by the
3 Creditors' Trust created by Protege-Financial and Saxe-Coburg.

4
5 (c) Of the \$17.4 million, Soref shall be severally liable for \$2,912,246.73, which amount
6 shall be attributable to those judgment creditors identified on the Restitution Payment
7 Sheet.

8
9 (d) Of the \$17.4 million, Foulk shall be severally liable for \$2,904,367.53, which amount
10 shall be attributable to those judgment creditors identified on this Restitution Payment
11 Sheet.

12 Once the initial \$5,813,742.54 of joint and several liability is satisfied by payment from any source,
13 any amounts thereafter paid to judgment creditors shall reduce the total amount of several liability
14 owed by the individual or entity that is the source of the funds.

15 **ADDITIONAL TERMS**

16 I. The parties stipulate and agree that the Court will retain jurisdiction of this action in
17 order to implement and carry out the terms of this Agreement or to entertain any suitable application
18 or motion by the People for additional relief within the jurisdiction of this Court.

19 J. The parties hereby acknowledge and agree that this Agreement constitutes the entire
20 Agreement between the Commissioner and Defendants, and supersedes the settlement agreement
21 executed on December 20, 2013, and any and all prior or contemporaneous agreements between the
22 Commissioner and Defendants.

23 K. As part of this Agreement, Defendants release all claims against the Commissioner
24 arising out of this action, which could have been brought in this action, or arose during the
25 Commissioner's investigation here. Also as part of this Agreement, the Commissioner releases all
26 claims against Defendants arising out of this action, which could have been brought in this action, or
27 arose during the Commissioner's investigation here. The People also hereby agree to resolve in this
28 Agreement and therefore dismiss with prejudice against Defendants all remaining remedies sought in

AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
LLC, et al.

1 the Complaint including the “civil penalties,” “costs and expenses,” and the “other relief” sections in
2 the Complaint.

- 3 1. **Acknowledgements Regarding Mutual Releases:** All parties to this
4 Agreement hereby expressly acknowledge and agree that, with respect to
5 entering into this Agreement and the releases provided for herein:
- 6 (a) each has had a reasonable time within which to consider the terms
7 memorialized in this Agreement before agreeing to them;
 - 8 (b) each has carefully read and fully understands all of the provisions of
9 this Agreement;
 - 10 (c) each is, through this Agreement, releasing all claims it may have
11 against the other(s) as more specifically described herein;
 - 12 (d) each knowingly and voluntarily agrees to all of the terms set forth in
13 this Agreement;
 - 14 (e) each knowingly and voluntarily intends to be legally bound by all of
15 the terms set forth in this Agreement; and
 - 16 (f) each was advised and hereby is advised in writing, to consider the
17 terms of this Agreement and to consult with an attorney of its or his or
18 her own choice prior to executing this Agreement, and each has so
19 consulted with an attorney of its or his or her own choice prior to
20 executing this Agreement, or has waived that right.

21 L. The Commissioner and Defendants hereby waive any claims known and unknown to
22 them against the other, their agents, officers, or employees which are based on the facts underlying
23 the present action. Defendants and the Commissioner specifically waive any rights provided by Civil
24 Code section 1542, that provides: “A general release does not extend to claims which the Creditor
25 does not know or suspect to exist in his favor at the time of executing the release, which if known by
26 them must have materially affected his settlement with the Debtor.”

27 M. This Agreement hereby resolves the People’s action against these Defendants.
28 However, nothing in this Agreement precludes other agencies from initiating other actions against
29 Defendants.

30 N. Defendants further acknowledge that nothing in this Agreement or in the Final
31 Judgment in this matter shall preclude the Commissioner, her agents, officers, or employees, to the
32 AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
33 AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
34 LLC, et al.

1 extent authorized by law, from referring any evidence or information regarding this matter to any
2 district attorney or any other state or federal law enforcement official, or from assisting, cooperating,
3 or co-prosecuting with regards to any investigation and/or action brought by any other federal, state,
4 or county agency. Defendants further agree and acknowledge that nothing in this Agreement or in
5 the Final Judgment in this matter shall bind or otherwise prevent any other federal, state, or county
6 agency from the performance of its duties.

7 O. The Commissioner and Defendants stipulate and agree that each party shall bear and
8 pay its own costs and expenses relating to this action and the performance of or compliance with any
9 condition or covenant set forth in this Agreement and/or Final Judgment, including without
10 limitation, the disbursements and fees of their respective attorneys, accountants, advisors,
11 consultants, agents and other representatives incidental to the preparation and carrying out of this
12 Agreement and/or Final Judgment.

13 P. Each party hereto represents and warrants that it has received independent legal
14 advice from its attorney(s) and/or other representatives prior to entering into this Agreement, and in
15 executing this Agreement relied solely on the statements set forth herein and the advice of its own
16 counsel and/or representative.

17 Q. In that the parties have had the opportunity to draft, review, and edit the language of
18 this Agreement, no presumption for or against any party arising out of drafting all or any part of this
19 Agreement will be applied in any action relating to or arising out of this Agreement. Accordingly,
20 the parties hereby waive the benefit of Civil Code section 1654 and any successor statute.

21 R. Time is of the essence with respect to any act, performance, or payment under this
22 Agreement.

23 S This Agreement shall be binding upon and inure to the benefit of the parties hereto
24 and their respective successors, assigns, heirs, and personal representatives.

25 T. If any paragraph, clause, or provision of this Agreement or Final Judgment entered
26 thereto, or the application thereof, is held invalid or unenforceable, such provision shall be severed,
27 and the invalidity shall not affect the application of the other provisions of this Agreement, or of the
28

1 Final Judgment, which shall remain in full force and effect. The provisions of the Agreement and the
2 Final Judgment are declared by the Commissioner and Defendants to be severable.

3 U. Defendants enter into this Agreement voluntarily and without coercion, and
4 acknowledge that no promises, threats, or assurances have been made by the Commissioner or her
5 agents, officers, or employees to induce them to enter into this Agreement.

6 V. This Agreement may be executed in one or more separate counterparts, each of which
7 shall be deemed an original, but all of which together shall constitute one and the same Agreement.
8 Facsimiled or electronic signatures in pdf format shall be deemed originals.

9 W. Each signatory hereto represents and warrants that he/she possesses the necessary
10 capacity and authority to execute this Agreement and bind the parties hereto.

11 **AGREED AND ACCEPTED:**

12
13 Date Executed: 2/14/14

**SAXE-COBURG INSURANCE
SOLUTIONS, LLC**

14
15
16
17
18 By: _____

19 Name: _____

20 Title: _____

21
22 Date Executed: 2/14/14

MICHELLE KENEN SEWARD

23
24
25 By: _____

26 Name: _____

27 Title: _____

28

AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
LLC, et al.

1 Date Executed: 2/14/14

DROR SOREF

2
3
4
5
6
7
8

By: _____

Name: _____

Title: _____

9 Date Executed: 2/14/14

**CALIFORNIA DEPARTMENT OF
BUSINESS OVERSIGHT, FORMERLY
KNOWN AS CALIFORNIA
DEPARTMENT OF CORPORATIONS**

10
11
12
13
14
15
16
17
18
19
20

By: _____

Name: _____

Title: _____

21 Date Executed: 2/14/14

SCOTT WALTER FOULK

22
23
24
25
26
27
28

By: _____

Name: _____

Title: _____

AMENDED SETTLEMENT AGREEMENT FOR ENTRY OF FINAL JUDGMENT OF PERMANENT INJUNCTION
AND RESTITUTION BETWEEN PLAINTIFF AND DEFENDANTS SAXE-COBURG INSURANCE SOLUTIONS,
LLC, et al.