MARY ANN SMITH
Deputy Commissioner
JOHN R. DREWS (SBN 69595)
Corporations Counsel
Department of Corporations
One Sansome Street, Suite 600
San Francisco, California 94104
Telephone: (415) 972-8570
Facsimile: (415) 972-8550
Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. TRAN'S ESCROW CORPORATION AND NGA HO TRAN Respondents.	OAH: 2011030608 File No. 963-2511 **SETTLEMENT AGREEMENT**

This Settlement Agreement is entered into by and between the Complainant, the California Corporations Commissioner ("Commissioner" or "Complainant"), and Respondents, Tran's Escrow Corporation and Nga Ho Tran ("Respondents") and is made with respect to the following facts:

RECITALS

A. Respondent Tran's Escrow Corporation ("TE") is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in the State of California.

B. Respondent TE currently holds an escrow agent's license number 963-2511 pursuant

State of California – Department of Corporations

to the Escrow Law of the State of California (California Financial Code section 17000 et seq.). TE has its business address located at 90 Great Oaks Boulevard, Suite 210, San Jose, CA 95110.

C. Respondent Nga Ho Tran ("Tran") is, and was at all times relevant the sole shareholder, president and director of TE and is authorized to enter into this Settlement Agreement on behalf of TE.

D. On May 18, 2010, the Commissioner commenced a special examination of the books and records of TE to review a particular escrow transaction handled by Tran. During the special examination, the Commissioner discovered that on November 20, 2008, Trans closed escrow no. 00000011-001 without having received the cash deposit and other funds required from the buyer by the lender's escrow instruction, in violation of Financial Code section 17414 (a)(1) and California Code of Regulation sections 1738 and 1738.2. Tran was able to close escrow no. 00000011-001 without receipt of the required funds from the buyer by engaging in activities in violation of Financial Code section 17414(a) (2) described below.

E. On November 20, 2008, Respondent Tran prepared receipt no. 001022 which misrepresented that the buyer had deposited the sum of $56,000.00 into the escrow. The receipt was false in that the cashier's check deposited into this escrow in the amount of $56,000.00 had actually been purchased by Tran's brother with trust funds deposited into Tran's brother's account that same day from the Tran's Escrow trust account. On November 20, 2008, Respondent Tran prepared a settlement statement which overstated the buyer's deposit by $56,000.00 and failed to disclose that seller's proceeds were not paid to the seller, but to Tran's brother and two other persons.

F. As a result of the foregoing, on or about February 15, 2011, the Commissioner filed and served his Notice of Intention to Issue Order to Revoke Escrow Agent's License and to Issue an Order Pursuant to section 17423 (Bar from Employment, Management or Control of an Escrow Agent), Accusation and accompanying documents dated February 14, 2011.

G. Respondents have timely filed a Notice of Defense with the Commissioner requesting a hearing but waived priority. After three continuances, a three day hearing is now scheduled on September 18 – 20, 2012.

State of California – Department of Corporations

H. On March 8, 2012, the Commissioner commenced a special examination of the books and records of Tran's Escrow Corporation. During the examination, it was determined that from February 14, 2011 to March 8, 2012, Respondent Tran opened 186 escrows and closed 91 escrows. This activity was a clear violation of Financial Code section 17423(c).

I. 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, for good and valuable consideration, and the terms and conditions set forth herein, the Parties agree as follows:

TERMS AND CONDITIONS

1. The purpose of this Settlement Agreement is for judicial economy and expediency, and to avoid the expense of a hearing, and possible further court proceedings.

2. Respondents admit the allegations contained in the Second Amended Accusation. The admissions of Respondents are solely for the limited purpose of these proceedings and any further proceeding(s) that may be initiated by or brought before the Commissioner against Respondents. It is the intent and understanding between the parties that this Settlement Agreement, and particularly Respondents' admissions herein, shall not be binding or admissible in any actions(s) brought against Respondents by third parties.

3. Respondent TE hereby agrees to the issuance of an order revoking TE's escrow agent's license (license number 963-2511). Respondent Tran hereby agrees to be barred from any position of employment, management or control of any escrow agent. A copy of the Revocation and Bar Order is attached and incorporated as Exhibit A. Respondents agree that upon issuance the Revocation and Bar Order is effective immediately and deemed a final order.

4. Respondents acknowledge their rights to an administrative hearing under California Financial Code sections 17608 in connection with the revocation and 17423 in connection with the bar and hereby waive that right to a hearing, and to any reconsideration, appeal or other rights which may be afforded pursuant to the Escrow Law, the California Administrative Procedure Act ("APA"), the California Code of Civil Procedure, or any other provision of law in connection with these matters and by waiving such rights, consents to this Settlement Agreement becoming final.

State of California – Department of Corporations

5. All escrow files with balances shall be transferred to other escrow agents or title companies, forthwith. Respondents further agree that TE shall file the closing audit report required by California Financial Code section 17406 (c) and (d), with the Commissioner within 105 days of the date of execution of this Settlement Agreement. Respondents acknowledge and agree that their failure to comply with the terms of this Settlement Agreement will be a breach of the Settlement Agreement and may result in further proceedings.

6. The Parties hereby acknowledge and agree that this Settlement Agreement is intended to constitute a full, final and complete resolution of the Second Amended Accusation and Order. The Parties further acknowledge and agree that nothing contained in this Settlement Agreement shall operate to limit the Commissioner's ability to assist any other agencies (county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such agency against Respondents based upon any of the activities alleged in this matter or otherwise.

7. The Commissioner shall cause this Settlement Agreement to be filed with the Office of Administrative Hearings immediately upon execution by all Parties hereto.

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

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

State of California – Department of Corporations

10. This Settlement Agreement, including the attached order, is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the Parties with respect to the subject matter hereof, and supercedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the Parties, their respective representatives, and any other person or entity with respect to the subject matters covered hereby. The Parties each represent and acknowledge that he, she or it is executing this Settlement Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

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

12. This Settlement Agreement shall not become effective until signed by all Parties and delivered by all Parties.

13. This Settlement Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document. This Settlement Agreement may be executed by facsimile signature, and any such facsimile signature by any party hereto shall be deemed to be an original signature and shall be binding on such party to the same extent as if such facsimile signature were an original signature.

14. No amendment, change or modification of this Settlement Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the Parties affected by it.

15. Any headings of this Settlement Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof.

16. Each signator hereto warrants and represents that he or she possesses all necessary capacity and the authority to sign and execute this Settlement Agreement.

17. Any notices required under the Settlement Agreement shall be provided to each party at the following addresses:

If to Respondents to:

Kathleen L. Morgan, Esq.
788a Ulloa Street
San Francisco, CA 94127

If to the Commissioner to:

John R. Drews, Corporations Counsel
California Department of Corporations
One Sansome Street, Suite 600
San Francisco, California 94104

JAN LYNN OWEN
California Corporations Commissioner

Dated: 9/17/12

By_____
MARY ANN SMITH
Deputy Commissioner

Dated: 9/16/12

TRAN'S ESCROW CORPORATION

By_____
NGA HO TRAN, President

Dated: 9/16/12

By_____
NGA HO TRAN, as an individual

Approved as to Form
Kathleen L. Morgan, Esq.

Dated: 9/17/12

By _____
Attorney for TRAN'S ESCROW CORPORATION and NGA HO TRAN

State of California – Department of Corporations

Approved as to Form
John R. Drews

Dated: 9/17/12 By _____
Attorney for CALIFORNIA
DEPARTMENT OF CORPORATIONS

State of California – Department of Corporations