

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
4 Department of Business Oversight  
320 West 4<sup>th</sup> Street, Ste. 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604 Fax: (213) 576-7181

6 Attorneys for Complainant

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

10  
11 In the Matter of the Accusation of THE ) File No.: 963-0610  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) SETTLEMENT AGREEMENT  
13 )  
Complainant, )  
14 )  
vs. )  
15 )  
16 ADOBE ESCROW CORPORATION and )  
CAROLL KUDINOFF, )  
17 )  
Respondents. )  
18

19 This Settlement Agreement is entered into between Respondents Adobe Escrow Corporation  
20 (“Adobe”) and Caroll Kudinoff (“Kudinoff”) on the one hand, and Complainant the Commissioner  
21 of Business Oversight formerly known as the California Corporations Commissioner  
22 (“Commissioner”) on the other hand, and is made with respect to the following facts:

23 **RECITALS**

24 A. Adobe is a corporation in good standing, duly formed and existing pursuant to the  
25 laws of the State of California, and authorized to conduct business in the State of California.

26 B. Adobe is an escrow agent licensed by the Commissioner pursuant to the Escrow Law  
27 of the State of California (California Financial Code § 17000 et seq.). Adobe has its principal place  
28 of business located at 13117 E. Hadley Street, Whittier, California 90601.

1 C. Kudinoff is, and was at all times relevant herein, the president and sole shareholder of  
2 Adobe

3 D. On September 14, 2012, Adobe and Kudinoff were personally served by the  
4 Commissioner with a Notice of Intention to Issue Order Revoking 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 September 7, 2012. Adobe and  
7 Kudinoff have filed a Notice of Defense with the Commissioner on the above-referenced matter. A  
8 two-day hearing is currently scheduled for August 6 and 7, 2013 at the Los Angeles Office of  
9 Administrative Hearings.

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

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

14 **TERMS AND CONDITIONS**

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

17 2. Adobe, without admitting or denying any of the allegations contained in the  
18 Accusation described in paragraph D above (“Accusation”), hereby agrees to the issuance by the  
19 Commissioner of an order revoking the escrow agent’s license of Adobe. The revocation order shall  
20 become effective on December 1, 2013. A copy of the revocation order is attached and incorporated  
21 as Exhibit A.

22 3. Adobe acknowledges its right to an administrative hearing under Financial Code  
23 section 17608 in connection with the revocation and hereby waives that right to a hearing, and to any  
24 reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the  
25 California Administrative Procedure Act, the California Code of Civil Procedure, or any other  
26 provision of law in connection with this matter herein.

27 4. Kudinoff, without admitting or denying any of the allegations contained in the  
28 Accusation, hereby agrees to the issuance by the Commissioner of an order barring Kudinoff from

1 any position of employment, management or control of an escrow agent. The suspension order shall  
2 become effective on December 1, 2013. A copy of the bar order is attached and incorporated herein  
3 as Exhibit B.

4 5. Kudinoff acknowledges her right to an administrative hearing under Financial Code  
5 section 17423 in connection with the bar and hereby waives that right to a hearing, and to any  
6 reconsideration, appeal, or other rights which may be afforded pursuant to the Escrow Law, the  
7 California Administrative Procedure Act, the California Code of Civil Procedure, or any other  
8 provision of law in connection with this matter herein.

9 6. The Commissioner hereby agrees that Kudinoff shall be allowed until close of  
10 business November 30, 2013 to complete the escheatment of all dormant trust funds now being held  
11 by Adobe to the State Controller under the provisions of the Unclaimed Property Law; Code of Civil  
12 Procedure section 1500 et seq. The Commissioner agrees that she will authorize the disbursement of  
13 funds from the Adobe trust account for purposes of escheatment upon submission of proper  
14 documentation.

15 7. Notwithstanding paragraphs 2 and 4 above, the allegations set forth in the Accusation  
16 shall be deemed admitted in the event Respondents (i) seek reinstatement pursuant to Government  
17 Code section 11522, or (ii) apply to the Department of Corporations now known as the Department  
18 of Business Oversight, whether individually or through any business entity in which Respondents or  
19 any Respondent named herein, is a partner, officer, director, manager, or person owning or  
20 controlling, directly or indirectly, ten percent or more of the outstanding interests or equity securities  
21 as the case may be.

22 8. The parties hereby acknowledge and agree that this Settlement Agreement is intended  
23 to constitute a full, final and complete resolution of this matter. The parties further acknowledge and  
24 agree that nothing contained in this Settlement Agreement shall operate to limit the Commissioner's  
25 ability to assist any other agency, (county, state or federal) with any prosecution, administrative,  
26 civil or criminal, brought by any such agency against Adobe and/or Kudinoff or any other person  
27 based upon any of the activities alleged in this matter or otherwise.  
28

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

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

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

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

27           13.       This Settlement Agreement shall not become effective until signed by all parties and  
28 delivered by all parties.

