

## SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) is effective May 20, 2022 (“Effective Date”), and is agreed to by the **Illinois Real Estate Lawyers Association** (“IRELA”), and the **Illinois Department of Financial and Professional Regulation** (“IDFPR”), **Mario Treto, Jr.** (“Treto”), solely in his official capacity as Secretary of IDFPR, and **Francisco Menchaca** (“Menchaca”), solely in his official capacity as Director of the Division of Financial Institutions. IDFPR, Treto, and Menchaca shall be referred to collectively herein as “the Department.” IRELA and the Department are collectively referred to herein as “the Parties,” and individually referred to herein as “Party.”

WHEREAS, IRELA is an Illinois not-for-profit corporation; and

WHEREAS, the Department is an Illinois state agency with authority to regulate title insurance business in Illinois as provided in the Title Insurance Act, 215 ILCS 155/1 *et seq.* (“the Act”); and

WHEREAS, the Act defines “financial interest” as “any ownership interest, legal or beneficial, except ownership of publicly traded stock,” 215 ILCS 155/3(6); and

WHEREAS, certain disputes have arisen between the Parties related to the Department’s creation and implementation of a new DS-1 Form, which was scheduled to go into effect on March 1, 2022, all as more fully set forth in the Complaint filed in *Illinois Real Estate Lawyers Association v. Illinois Department of Financial and Professional Regulation, et al.*, Cause No. 2022 CH 1658, pending in the Circuit Court of Cook County, Illinois, including, but not limited to, disputes related to the Department’s interpretation of the Act, the Department’s scope of statutory authority, and the Department’s compliance with the Illinois Administrative Procedure Act (“the Lawsuit”); and

WHEREAS, the Parties desire to resolve all of their disputes and differences, including, but not limited to, the disputes and differences set forth in the Lawsuit.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Use of the 1997 DS-1 Form. The Department shall not use, implement, require, or enforce the DS-1 Form that was scheduled to go into effect on March 1, 2022. The Department shall not require the use of any form for disclosure of financial interest under 215 ILCS 155/18(b) other than the 1997 DS-1 Form titled “Disclosure Statement Controlled Business Arrangement” until thirty-six months from the Effective Date, at the earliest, unless an intervening Amendment to the Act or other binding change in the law alters the Department’s authority or applicable legal requirements.

2. Enforcement of the 1997 DS-1 Form. The Department agrees not to take any enforcement action against a producer of title business, or any associate of such producer, if the producer or associate provides the 1997 DS-1 Form in compliance with the disclosure requirements under 215 ILCS 155/18(b). The Department agrees not to take any enforcement action against a producer of title business (or associate thereof) for failing to provide the 1997 DS-1 Form if the only interest such producer, any associate of the producer, or both, have in the title insurance company, independent escrowee, or title insurance agent to which business is referred is receipt of a percentage of the premium for the transaction at issue or any other interest that is not an ownership interest, legal or beneficial. This paragraph shall be null and void if the Department issues a new DS-1 Form as authorized in Paragraph 1.

3. Notice of Use of the 1997 DS-1 Form. The Department agrees to notify the public via its website and to notify other stakeholders via memorandum, that the DS-1 Form intended to go into effect on March 1, 2022, shall not be used, and that the 1997 DS-1 Form shall be used and accepted by the Department until thirty-six months from the Effective Date, at the earliest, unless an intervening Amendment to the Act or other binding change in the law alters the Department's authority or applicable legal requirements. The Department agrees that in the notices required by this Paragraph 3, and in the Department's website tab linking to the 1997 DS-1 Form, the 1997 DS-1 Form shall only be referenced as the 1997 DS-1 Form, the "Disclosure Statement – Controlled Business Arrangement" form, or the "Disclosure Statement Controlled Business Arrangement" form as it is currently titled.

4. No Admission of Liability. No actions taken by the Department, either previously or in connection with this Agreement, shall be deemed or construed to be an admission of the truth or falsity of any matter pertaining to any claim or dispute, or any acknowledgement of any liability for any other claim or dispute, demand or action, with any liability expressly denied by the Department.

5. Release. IRELA and its heirs, successors, assigns, and all other persons acting on IRELA's behalf release and forever discharge the Department and the State of Illinois, its agencies and their agents, former and present employees, successors, heirs, and assigns and all other persons acting on their behalf from all actions, claims and demands of any kind that arose or could have arisen from the facts alleged or claims made in the Lawsuit regarding the DS-1 Form that was scheduled to go into effect on March 1, 2022, whether known or unknown, up to the Effective Date of this Agreement. IRELA and IRELA's attorneys release, waive, and relinquish any claim or right to attorney's fees, costs, or expenses allegedly incurred or due under any statute, rule, or common law provision. IRELA does not waive or release any claims related to any action taken by the Department after the Effective Date, the Department's use or enforcement of a different form after thirty-six months from the Effective Date, or based on the Department's interpretation of an intervening Amendment to the Act or other change in the law that the Department contends alters its authority.

6. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof.

7. Binding Effect. The provisions herein contained shall inure to the benefit of and be binding upon the Parties hereto, their, successors, subsidiaries, assigns and legal representatives. Moreover, any producer of title insurance business or associate referring title insurance as defined in the Act may claim the benefit of the terms of this Agreement.

8. Governing Law. The validity, construction, enforcement and effect of this Agreement shall be governed by the law of the State of Illinois.

9. Severability. If any term, provision, or section of this Agreement should be determined to be invalid, void or unenforceable, such term, provision, or section shall, if possible, be changed to the most minor extent necessary to make it valid and enforceable and to carry out the intent of the Parties. In such event, all remaining terms, provisions and sections of the Agreement shall remain in full force and effect, with such change or without the affected term, provision, or section as the case may be.

10. Authority. The Parties each represent and warrant that the Parties each have the sole right and exclusive authority to sign this Agreement; and that the Parties have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement.

11. Counterparts. This Agreement may be signed in one or more counterparts and may be signed via DocuSign or other electronic signature in accordance with Illinois law, all of which shall be considered one and the same agreement and binding on all parties hereto, notwithstanding that Parties are not signatories to the same counterpart. A signed facsimile, pdf or photocopy of this Agreement shall be binding on the Parties to this Agreement.

12. Representation. The Parties warrant and represent that they have carefully read this Agreement, that they sought the advice of their respective counsel prior to signing this Agreement, that they know and understand the contents of this Agreement, and that they sign this Agreement as their own free act. The Parties further acknowledge that this Agreement was jointly drafted, and that this Agreement cannot be construed against any Party as the drafter of this Agreement.

13. Dismissal of Litigation. IRELA agrees that upon publication of the notices set forth in Paragraph 3, above, it shall seek dissolution of the Temporary Restraining Order entered on March 3, 2022, and file a dismissal of the Lawsuit, with prejudice, and with each party to pay its own costs and attorneys' fees. The dismissal of the Lawsuit does not affect any claims IRELA may have related to any action taken by the Department after the Effective Date.

14. Enforcement/Defense. Any action to enforce the terms of this Agreement shall be brought in the Circuit Court of Cook County, Illinois. Provided, however, that this

Agreement may be raised as a defense to any administrative action or sanction related to disclosures that are inconsistent with the terms of this Agreement. The prevailing party in any action to enforce this Agreement shall not be entitled to contractual attorneys' fees and costs per the terms of this Agreement, but shall not be foreclosed from claiming any applicable statutory attorneys' fees and expenses.

IN WITNESS WHEREOF, each person signing below represents and warrants that he or she is fully authorized to sign and deliver this Agreement in the capacity set forth beneath his or her signature and the Parties hereto have signed this Agreement as of the date and year written below.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK AND  
IS FOLLOWED BY THE SIGNATURES OF THE PARTIES

**Illinois Real Estate Lawyers Association**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

**Illinois Department of Financial and Professional Regulation**

By:  \_\_\_\_\_

Print Name: MARIO TRETTO JR.

Title: SECRETARY

Address: 559 W. MONROE - 5<sup>th</sup> FLOOR

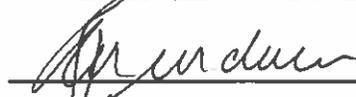
CHICAGO, IL 60661

Date: MAY 20, 2022

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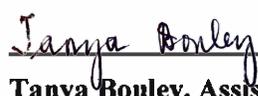
**Mario Treto, Jr., solely in his capacity as  
Secretary of the Illinois Department of Financial  
And Professional Regulation**

Date: MAY 20<sup>th</sup> 2022

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**Francisco Menchaca, solely in his capacity as  
Director of the Division of Financial Institutions**

Date: 20 MAY 2022

 \_\_\_\_\_

**Tanya Bouley, Assistant Attorney General  
Counsel for the Department**

Date: May 20, 2022

**Illinois Real Estate Lawyers Association**

By: [Signature]

Print Name: John G. O'Brien

Title: President

Address: 85 W. Algonquin Rd  
Arlington HTS., IL 60005

Date: May 20, 2012

**Illinois Department of Financial and Professional Regulation**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

**Mario Treto, Jr., solely in his capacity as  
Secretary of the Illinois Department of Financial  
And Professional Regulation**

Date: \_\_\_\_\_

\_\_\_\_\_

**Franciso Menchaca, solely in his capacity as  
Director of the Division of Financial Institutions**

Date: \_\_\_\_\_

\_\_\_\_\_

**Tanya Bouley, Assistant Attorney General  
Counsel for the Department**

Date: \_\_\_\_\_