

1 MARY ANN SMITH
2 Deputy Commissioner
3 DOUGLAS M. GOODING
Assistant Chief Counsel
4 MARISA I. URTEAGA-WATKINS (State Bar No. 236398)
Counsel
5 1515 K Street, Suite 200
6 Sacramento, California 95814
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8 Attorneys for Complainant

10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) CDDTL License Nos. 100-3529 & 100-4248
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) SETTLEMENT AGREEMENT
14)
Complainant,)
15)
16 v.)
17 MEISTER-HUGHES, INC., d.b.a.,)
COLORTYME,)
18)
Respondent.)
19)
20)

21 This Settlement Agreement (“Agreement”) is entered into between Respondent Meister-
22 Hughes, Inc., d.b.a. Colortyme (“Meister” or “Respondent”), and the Commissioner of Business
23 Oversight (“Commissioner”) (together, the “Parties”), and is made with respect to the following facts:

24 **RECITALS**

25
26 A. Respondent Meister is a deferred deposit transaction originator licensed by the
27 Commissioner pursuant to the Deferred Deposit Transaction Law (Fin. Code § 23000 *et seq.*)
28 (“CDDTL”). On June 15, 2007, the Department of Business Oversight (“Department”) issued

1 CDDTL License No. 100-3529 to Meister for Respondent’s principal place of business and “main
2 office” located at 27315 Jefferson Ave., #F, Temecula, CA 92590. On September 14, 2010, the
3 Department also issued CDDTL License No. 100-4248 to Meister for Respondent’s “branch office”
4 located at 3000 W. Florida Ave., Hemet, CA 92543.

5 B. On December 15, 2014, the Commissioner issued to Meister an Accusation in Support
6 of Notice of Intent to Issue Order Suspending Licenses Pursuant to Financial Code Section 23052,
7 Subdivision (b) (“Action”), attached and incorporated herein as “Exhibit 1.”

8 C. The Action was served on Meister in December 2014. Meister issued a timely written
9 administrative hearing request and waiver of statutory time requirements in which to hold the hearing
10 to the Commissioner in January 2015.

11 D. It is the intention of the Parties to resolve this matter without the necessity of an
12 administrative hearing or any other litigation.

13 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
14 forth herein, the Parties agree as follows:

15 **TERMS AND CONDITIONS**

16 1. This Agreement is entered into for the purpose of judicial economy and expediency.

17 2. Each Party represents, warrants, and agrees that it has received or been advised to seek
18 independent legal advice from an attorney with respect to the advisability of executing this
19 Agreement.

20 3. Meister hereby agrees to the terms of this Agreement in settlement of the Action.

21 4. Meister, in and for purposes of entering into this Agreement, neither admits nor denies
22 the allegations set forth in the Action.

23 5. Meister understands, agrees and consents that Meister is hereby ordered to desist and
24 refrain from failing to maintain a net worth requirement of at least \$25,000.00 at all times, in
25 violation of Financial Code section 23007. Meister also understands, agrees, and consents that
26 Meister is hereby ordered to desist and refrain from charging excess finance charges over and above
27 fifteen percent (15%) of the face amount of the checks to loan customers, in violation of Financial
28 Code section 23036, subdivision (a).

1 6. Meister hereby agrees to pay the total amount of seven thousand five hundred dollars
2 (\$7,500.00) (“Settlement Citation”) pursuant to Financial Code section 23058, for the following:
3 \$2,500.00 citation for one (1) violation of Financial Code section 23007; and \$5,000.00 citation for
4 two (2) violations of Financial Code section 23036. Meister shall pay the Settlement Citation by
5 cashier’s check or money order by 5:00 p.m. November 8, 2015 to the Department of Business
6 Oversight, Attn: Marisa I. Urteaga-Watkins, Counsel, 1515 K Street, #200, Sacramento, CA 95814.

7 7. Meister hereby agrees to refund all excessive fees charged and collected from
8 customers in Respondent’s loan transactions, as reflected in the Action. Meister shall refund to each
9 customer all excessive fees charged and collected in loan transactions within thirty (30) calendar days
10 of the date of execution of this Agreement. Meister shall issue all refunds by check or money order
11 to each customer, delivered by United States First Class Priority Certified Mail with Return Receipt
12 requested at the customer’s last known address.

13 8. Meister hereby agrees to provide an accounting of all charges and refunds (“Refund
14 Accounting”), including but not limited to, proof of refund in the form of cancelled checks or money
15 order images (“Refund Accounting”) to the Department. Meister hereby agrees to deliver the Refund
16 Accounting to the Department within sixty (60) days of the date of execution of this Agreement at the
17 Department of Business Oversight, Attn: Marisa I. Urteaga-Watkins, Counsel, 1515 K Street, #200,
18 Sacramento, CA 95814.

19 9. Meister hereby agrees to provide to the Department, an accounting of all uncashed or
20 returned refunds, including but not limited to images of uncashed checks or money orders and
21 documentation, evidencing Meister’s attempts to deliver payment to the consumer, within one
22 hundred twenty (120) days of the date of execution of this Agreement. Meister shall notify the
23 Department of any refund payment that has been returned or remains outstanding. Payment owed to
24 any borrower that cannot be reasonably located shall be escheated by Respondent to the State of
25 California pursuant to the provisions of the California Unclaimed Property Law (Code of Civ. Proc.,
26 §§ 1500 et seq.) Meister agrees that if it fails to meet any deadline or any requirement herein, other
27 than inadvertent and isolated errors that are promptly corrected by Meister, Meister shall be
28 immediately suspended from lending under its CDDTL License Nos. 100-3529 & 100-4248 until the

1 requirement is met. Meister hereby waives any notice and hearing rights to contest the immediate
2 suspension from lending resulting from failure to comply with Paragraphs 5 through 11 above that
3 may be afforded under the Financial Code, the Administrative Procedure Act, the Code of Civil
4 Procedure, or any other legal provisions.

5 10. Meister acknowledges Meister's right to a hearing under the CDDTL in connection
6 with the Action. Meister hereby agrees to the finality of the Action and voluntarily waives all rights
7 to reconsideration, appeal, or other rights which may be afforded pursuant to the CDDTL or any
8 other provision of law in connection with these matters, including but not limited to Government
9 Code sections 11521 and 11523, and any writ proceeding in accordance with the Code of Civil
10 Procedure.

11 11. Meister hereby withdraws Meister's request for administrative hearing issued to the
12 Department in January 2015. Meister shall tender a withdrawal of Meister's request for
13 administrative hearing on the date of execution of this Agreement in writing to: the Department of
14 Business Oversight, Attn: Marisa I. Urteaga-Watkins, Counsel, 1515 K Street, #200, Sacramento, CA
15 95814. Such withdrawal may also be made by way of electronic mail sent to the following address:
16 Marisa.Urteaga-Watkins@dbo.ca.gov.

17 12. Meister acknowledges that this Agreement is a public record.

18 13. It is the intent and understanding between the Parties that this Agreement shall not be
19 binding or admissible against Meister in any action(s) brought against Meister by third parties.

20 14. The Commissioner reserves the right to bring any unknown or future actions against
21 Meister or any of Meister's partners, employees or successors for any and all unknown or future
22 violations of the CDDTL. This Agreement shall not serve to exculpate Meister or any of Meister's
23 partners, employees or successors from liability for any and all future violations of the CDDTL.

24 15. The Parties hereby acknowledge and agree that this Agreement is intended to
25 constitute a full, final and complete resolution of the Action. The Parties further acknowledge and
26 agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability to
27 assist any other agencies with any administrative, civil or criminal prosecution brought by any such
28 agency against Meister or any other person or entity, based upon any of the activities alleged in this

1 matter or otherwise.

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

10 17. This Agreement, including Exhibit 1, is the final written expression and the complete
11 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
12 between the Parties with respect to the subject matter hereof, and supersedes all prior or
13 contemporaneous agreements, negotiations, representations, understandings, and discussions between
14 and among the Parties, their respective representatives, and any other person or entity.

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

21 19. This Agreement shall not become effective until signed by all Parties, and delivered to
22 the Office of Administrative Hearings

23 20. This Agreement may be executed in any number of counterparts by the Parties and when
24 each party has signed and delivered at least one such counterpart to the other party, each counterpart
25 shall be deemed an original and taken together shall constitute one and the same Agreement.

26 21. No amendment, change or modification of this Agreement shall be valid or binding to
27 any extent unless it is in writing and signed by all of the Parties affected by it.
28

1 22. This Agreement shall be construed and enforced in accordance with and governed by
2 California law.

3 23. Each party covenants that they possess all necessary capacity and authority to sign and
4 enter into this Agreement. Each party warrants and represents that such party is fully entitled and duly
5 authorized to enter into and deliver this Agreement. In particular, and without limiting the generality
6 of the foregoing, each party warrants and represents that it is fully entitled to enter into the covenants,
7 and undertake the obligations set forth herein.

8 24. The Parties each represent and acknowledge that they are executing this Agreement
9 completely voluntarily and without any duress or undue influence of any kind from any source.

10 25. Notice shall be provided to each party at the following addresses:

11 If to Respondents to:

12 Timothy G. Meister
13 Meister-Hughes, Inc. dba ColorTyme
14 27315 Jefferson Avenue, #F
15 Temecula, CA 92592
16 cc: William Woodward Webb, Esq.
17 PO Box 1509
18 Raleigh, NC 27602

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If to the Commissioner to:

Marisa I. Urteaga-Watkins, Esq.
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, CA 95814

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on
the dates set forth opposite their respective signatures.

Dated: 10/12/15

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 10/12/15

MEISTER-HUGHES, INC., d.b.a.,
COLORTYME

By _____
Timothy G. Meister, a representative of
MEISTER-HUGHES, INC., d.b.a.,
COLORTYME