

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Settlement Agreement”) is entered into between Loan Payment Administration, LLC, an Ohio limited liability company, Daniel Lipsky, an individual, and Nationwide Biweekly Administration, Inc., an Ohio corporation (collectively, “Nationwide”), and Jan Lynn Owen, in her official capacity as Commissioner of the Department of Business Oversight for the State of California (“DBO”).

RECITALS

- A. Nationwide is an administrator of biweekly mortgage loan repayment programs.
- B. DBO is a consumer protection agency that oversees financial service providers and products, including the operations of state-licensed financial institutions such as money transmitters.
- C. On or about November 21, 2014, Nationwide filed a Complaint for Declaratory and Injunctive Relief in United States District Court, Northern District of California, Case No. 5:14-cv-05166-LHK (“Federal Complaint”).
- D. On or about May 15, 2015, the People of the State of California filed a Complaint for Injunction, Civil Penalties and Ancillary Relief of Restitution and Disgorgement against Nationwide in the Superior Court of the State of California, County of Alameda, Case No. RG15770490 (“State Complaint”).
- E. The first two causes of action in the State Complaint for (1) unlicensed business activities in violation of Financial Code section 12200 and (2) fee overcharges and unauthorized charges in violation of Financial Code sections 12314 and 12314.1 are known as the “prorater causes of action.” DBO has the authority to resolve and dismiss these two causes of action in the State Complaint.

NOW, THEREFORE, for valuable consideration, including, without limitation, the mutual covenants and conditions set forth in this Settlement Agreement, and to avoid the expense and burden of continued litigation, the parties hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing recitals are incorporated into this Settlement Agreement by this reference as if set forth in full.
2. Procurement of Money Transmitter License. Nationwide shall not operate or offer in California any interest savings program (as that term is used in Nationwide’s First Amended Answer to the State Complaint) or any other service or program wherein Nationwide receives money for transmission (as defined under Cal. Fin. Code § 2003(u)) to finance lenders or creditors on behalf of California borrowers or debtors, without first obtaining a Money Transmitter license issued by the DBO.

3. Money Transmitter License Procurement. In processing Nationwide's application for a Money Transmitter license, the DBO shall not consider the allegations in the State Complaint except to the extent facts exist independent of the State Complaint in this case. Attorneys who represented a party in the lawsuit against Nationwide shall not advise a DBO program that is processing an application. If Nationwide holds a Money Transmitter License, it shall not need any other or different license from DBO to offer an interest savings program as defined above. To the extent that Nationwide can offer an interest savings program without a money transmitter license and still comply with California law, nothing in this Order shall prevent Nationwide from engaging in such activity. Nationwide will notify the DBO at least 30 days prior to offering an interest savings program in California without a money transmitter license.

4. Dismissal by DBO. No later than ten business days after the execution of this Settlement Agreement by all parties, DBO will file with the Clerk of the Court a dismissal with prejudice of the first two causes of action in the State Complaint.

5. Dismissal by Nationwide. No later than ten business days after the execution of this Settlement Agreement by all parties, Nationwide will file with the Clerk of the Court a dismissal with prejudice of the Federal Complaint.

6. Representation by Counsel. The parties acknowledge that each has had the benefit and advice of independent legal counsel in connection with this Settlement Agreement and understands the meaning of each term of this Settlement Agreement and the consequences of signing this Settlement Agreement.

7. Past Attorneys' Fees and Costs. Each party shall bear its or his own attorneys' fees and costs incurred through the date of execution of this Settlement Agreement for both the State Complaint and the Federal Complaint.

8. Execution of Other Documents. All parties shall cooperate fully with each other in the execution of any and all other documents and in the completion of any additional acts that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement.

9. Entire Agreement. This Settlement Agreement contains the entire agreement among the parties with respect to the matters referred to in this Settlement Agreement. This Settlement Agreement supersedes all prior drafts, negotiations and communications with respect to the matters referred to herein. This Settlement Agreement may not be modified, changed, supplemented or terminated, nor may any of the obligations hereunder be waived, except by written instrument signed by the parties to be charged.

10. Construction. This Settlement Agreement shall not be construed against the party preparing it, but shall be construed as if all parties jointly prepared this Settlement Agreement without any uncertainty or ambiguity being interpreted against any one party. This Settlement Agreement shall be interpreted, enforced and governed by and under the laws of the State of California.

11. Counterparts. This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument. A facsimile of a signature shall be binding against the party whose signature appears on the facsimile.

Dated: October 17, 2018

LOAN PAYMENT ADMINISTRATION, LLC,
an Ohio limited liability company

By:
Its: Manager

Dated: October 17, 2018

By: DANIEL S. LIPSKY

Dated: October 17, 2018

NATIONWIDE BIWEEKLY ADMINISTRATION,
INC., an Ohio corporation

By:
Its: President

Dated: October 18, 2018

CALIFORNIA DEPARTMENT OF BUSINESS
OVERSIGHT

By:
Its: Commissioner

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