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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO

11 SANDRA LOMELI,

12 Petitioner,

13 v.

14 RITA SAENZ, Director, Department of Social
15 Services, State of California,

16 Respondent.

) Case No.: 98CS01747

) SETTLEMENT AGREEMENT AND
) STIPULATION FOR ENTRY OF
) JUDGMENT AFTER REMAND
) FROM THE COURT OF APPEAL

18 INTRODUCTION

19 WHEREAS, the parties in this case desire to resolve this matter without the time
20 and expense of further litigation, they recite as follows:

21 PARTIES

22 The parties in this case and to this Settlement Agreement and Stipulation for Entry
23 of Judgment After Remand From The Court of Appeal ("Agreement") are petitioner SANDRA
24 LOMELI and respondent RITA SAENZ, Director, Department of Social Services, State of
25 California ("Department").

26 HISTORY OF THE CASE

27 Sandra Lomeli filed this case on July 2, 1998, alleging that the Department had
28 failed to adequately notify her and all other food stamp recipients of its authority to settle or

1 compromise the amount of a food stamp overissuance. Ms. Lomeli asserted that the Food Stamp
2 Act granted the Secretary of Agriculture authority to settle and adjust any food stamp
3 overissuance claim. 7 U.S.C. § 2022(a)(1). She further asserted that the Secretary of Agriculture
4 had by regulation delegated this authority to the Respondent's California Department of Social
5 Services. 7 C.F.R. § 271.4(b). She alleged that the Department had failed to notify her of the
6 opportunity to compromise food stamp overissuance claims, and that if notified, she would have
7 negotiated with the Department for a reduction or compromise of her overissuance claim.

8 Lomeli alleged that the Department's failure to inform her and all other food
9 stamp recipients of the ability to request a compromise of food stamp overissuance claims
10 violated their right to due process of law under the California Constitution, article I, section 7
11 and under the Fourteenth Amendment of the United States Constitution. She sought to compel
12 the Department to amend all food stamp notices to clearly advise recipients of the Department's
13 authority to settle or compromise food stamp overissuance claims, to promulgate regulations
14 pertaining to this authority, and to cease all overissuance collection efforts until the notices had
15 been amended.

16 On April 1, 1999, the Superior Court entered judgment granting the petition for
17 writ of mandate. The writ ordered the Department to:

18 1. Set aside the administrative decision against Lomeli and restore the \$82
19 recouped from Lomeli for the repayment of a food stamp overissuance.

20 2. Determine, on a case by case basis, when requested to do so by food stamp
21 recipients, whether to settle or compromise food stamp overissuance claims, pursuant to federal
22 law.

23 3. Amend all food stamp notices pertaining to overissuance to comply with the
24 requirements of due process of law under the United States and California Constitutions, by
25 including within the notice clear advice to recipients of the Department's authority to settle or
26 compromise overissuance claims arising from administrative or household error.

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1 4. Cease all collection efforts for food stamp administrative error or household
2 error overissuances until all food stamp notices pertaining to overissuances had been amended to
3 adequately notify recipients of the Department's settlement and compromise authority.

4 5. Promulgate lawful regulations establishing standards for the exercise of the
5 Department's authority and discretion to settle or compromise the amount of the food stamp
6 overissuance.

7 On April 28, 1999, the Department appealed from the judgment and writ. On
8 May 11, 2000, the parties filed in the Court of Appeal a document entitled Settlement Agreement
9 and Stipulation for Stay of Appeal and Remand to the Superior Court. On May 24, 2000, the
10 Court of Appeal ordered that the appeal be stayed, and that jurisdiction be conferred on the
11 superior court for the purpose of allowing the court to consider the terms of this settlement
12 agreement.

13 **AGREEMENT AND STIPULATION**

14 In settlement of all claims and defenses in the above-captioned case, the parties,
15 by and through their undersigned counsel of record, agree as follows:

16 1. The Department shall refund to Sandra Lomeli the \$82.00 recouped from her
17 for the repayment of a food stamp overissuance, subject to recollecting it through allotment
18 reduction according to the terms of this Agreement.

19 2. After the Department makes a final determination establishing a food stamp
20 administrative error overissuance, current food stamp recipients, who do not elect to repay the
21 administrative error overissuance in a lump sum, will continue to be subject to a 5% per month
22 food stamp allotment reduction.

23 3. After current recipients have repaid an administrative error overissuance for
24 36 months from the date the overissuance was established, through the 5% allotment reduction,
25 the Department shall automatically, without any request by the recipient, compromise and
26 forgive any remaining balance of that overissuance. This process shall be implemented effective
27 for administrative error overissuances in which allotment reduction began on or after March 1,
28 2000.

1 4. The Department shall amend the notice to recipients establishing a food stamp
2 administrative error overissuance or inadvertent household error overissuance to inform
3 recipients of the automatic compromise that will be made to all administrative error
4 overissuances, after 36 months of allotment reductions have occurred. The Department shall
5 provide draft amended notices to Legal Services of Northern California (LSNC) and Western
6 Center on Law and Poverty (WCLP). LSNC and WCLP may review and submit comments
7 within 14 days of receipt of the draft notices.

8 5. The Department shall issue instructions to the counties implementing this
9 Agreement within sixty (60) days of the Court's entry of an order pursuant to this Agreement.

10 6. The Department shall promulgate regulations within 24 months providing that
11 the balance of all administrative error overissuances remaining after allotment reduction has
12 occurred at the 5% level for 36 months shall be compromised and forgiven.

13 7. This Agreement shall have no effect on the rights of former food stamp
14 recipients who no longer receive food stamps, or the rights of food stamp recipients who have
15 received overissuances due to household error.

16 8. The court may enter judgment pursuant to this Agreement.

17 9. This Agreement has been drafted by all counsel for the parties. In the event a
18 court is required to interpret this Agreement, no party shall have the right to argue that another
19 party is responsible for any ambiguity in the language of the Agreement, and any uncertainty or
20 ambiguity shall not be interpreted against any one party.

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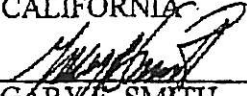
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1 10. All parties executing this Agreement and any related documents warrant and
2 represent that they have full legal authority to do so and are fully able to satisfy any and all
3 obligations assumed therein.

4 **THE PARTIES SO AGREE AND STIPULATE.**

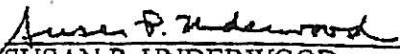
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6 Dated: June 30, 2000

LEGAL SERVICES OF NORTHERN
CALIFORNIA

7 
8 GARY F. SMITH
9 Attorney for Petitioner SANDRA LOMELI

10 Dated: June 30, 2000

11 BILL LOCKYER, Attorney General
12 of the State of California
13 FRANK S. FURTEK, Supervising
14 Deputy Attorney General

15 
16 SUSAN P. UNDERWOOD,
17 Deputy Attorney General

18 Attorneys for Respondent RITA SAENZ
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