

1 Adopt 2 Cal. Code Regs., Section 18318 to read:

2 **§18318. Collections. Executive Director’s Authority for the Settlement of an Order for**

3 **Monetary Penalties.**

4 (a) The Executive Director has the authority to enter into a settlement agreement on  
5 behalf of the Commission in full satisfaction of an order for monetary penalties where all the  
6 following are met:

7 (1) The monetary penalty order is no longer subject to any means of judicial review.

8 (2) Three collection demand letters, each sent at a minimum of 30 day intervals, were  
9 sent by staff notifying the debtor of the debt owed and the further actions that may be taken in  
10 the Commission’s collection process.

11 (3) Staff made reasonable collection efforts by:

12 (A) Seeking offsets from payments due to the debtor from the Franchise State Tax Board  
13 or other state departments, and

14 (B) If legally permissible, obtaining a court or court clerk’s judgment against the debtor  
15 pursuant to Sections 91013.5 or 91013.7, and then using an appropriate judgment enforcement  
16 method pursuant to the Code of Civil Procedure, including filing real property or personal  
17 property liens, bank levies or wage garnishments against the debtor’s assets.

18 (4) The Executive Director has determined the settlement is appropriate considering the  
19 following factors:

20 (A) The settlement amount exceeds the amount likely to be collected within a reasonable  
21 time period.

1           (B) The debtor’s ability to satisfy the full debt or a greater amount of the debt within a  
2 reasonable time given the debtor’s assets or income, or debtor’s reasonable prospects of  
3 acquiring assets or income.

4           (C) The extent to which the debt owed includes interest accrued on the original penalty  
5 amount.

6           (D) The severity and type of violation for which the penalties were assessed.

7           (b) The Executive Director will report a settlement agreement to the Commission after its  
8 execution. That report shall be made at the next Commission meeting. The settlement agreement  
9 will include a brief description of staff’s reasonable collection efforts and the factors that  
10 justified the settlement.

11 Note: Authority cited: Section 83112, Government Code. Reference: Sections 83116 and,  
12 91013.5, Government Code.