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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. TRAN'S ESROW CORPORATION and NGA TRAN, Respondents.	CASE NO. 2011030608 AGENCY NO. 963-2511 **FIRST AMENDED ACCUSATION RE INTENT TO ISSUE ORDER** 1. REVOKING ESCROW LICENSE OF TRAN'S ESCROW CORPORATION 2. BARRING NGA TRAN FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT OR CONTROL OF ANY ESCROW AGENT

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The Complainant, California Corporations Commissioner ("Commissioner") of the Department of Corporations ("Department") is informed and believes, and based upon such information and belief, alleges and charges Respondents as follows:

I. INTRODUCTION

1. The Commissioner is authorized to administer and enforce the provisions of the Escrow Law (California Financial Code § 17000 et seq.) and the regulations promulgated thereunder (Cal. Code Regs., tit. 10, § 1732.2 (10 CCR 1732.2)).

2. Respondent Tran's Escrow Corporation ("Tran's Escrow") is an escrow agent licensed by the Commissioner pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.). Tran's Escrow has its principal place of business located at 90 Great Oaks Boulevard, Suite 210, San Jose, California 95110.

3. Respondent Nga Tran ("Tran") is, and was at all times relevant herein, the president and sole shareholder of Tran's Escrow Corporation.

II. STATEMENT OF FACTS

4. On or about May 18, 2010, the Commissioner commenced a special examination of the books and records of Tran's Escrow to review a particular escrow transaction handled by Tran. During the special examination, the Commissioner discovered the following violations of the Escrow Law and the regulations promulgated thereunder:

5. In the course of the special examination, Tran admitted to an examiner of the Department that David Tran (brother) was employed at Tran's Escrow and was paid through its general account payroll of Tran's Escrow in violation of Financial Code §§ 17414.1(d) and 17419. Earlier, Tran had denied to another Department examiner that David Tran was an employee of Tran's Escrow.

6. On or about November 20, 2008, Tran closed escrow no. 00000011-001 without having received the cash deposit and other funds required from the buyer by the lender's escrow instructions, in violation of Financial Code § 17414(a)(1) and 10 CCR 1738 and 1738.2.

7. Tran was able to close escrow no. 00000011-001 without receipt of the required funds from the buyers by engaging in the following activities in violation of Financial Code § 17414(a)(2):

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(a) On or about November 20, 2008, Tran prepared, or caused to be prepared, receipt no. 001022 which misrepresented that the buyer had deposited the sum of $56,000.00 into escrow. The receipt was false in that the cashier's check deposited into this escrow in the amount of $56,000.00 had actually been purchased by Tran's brother David with trust funds deposited into Tran's brother's account that same day from the Tran's Escrow trust account. Pursuant to the special examination of the Department, Respondent Tran was asked to explain the role of her brother David Tran in the transaction being investigated. Tran, in a letter to the Department on Tran's Escrow Corporation letterhead dated March 24, 2010 stated that "David Tran was involve in this matter, because he had brought in the funds for the buyer…" This statement was not true and was a violation of Financial Code §§ 17210.2 and 17414(a)(2).

(b) On or about November 20, 2008, Tran prepared, or caused to be prepared, a settlement statement which overstated the buyer's deposit by $56,000.00 and failed to disclose that seller's proceeds were not paid to the seller, but to Tran's brother and two other persons.

(c) Based on the special examination of the books and records of Tran's Escrow and the violations of the Escrow Law discovered therein, the Commissioner on February 14, 2011, issued an Accusation and Notice of Intention to Issue Order Revoking Escrow Agent's License and to Issue Orders Pursuant to California Financial Code § 17423 (Bar from employment, management or control of any escrow agent).

8. On or about March 8, 2012, the Commissioner commenced a second special examination of the books and records of Tran's Escrow to determine whether Tran was in compliance with Financial Code § 17423(c).

9. California Financial Code section 17423(c) states:

> Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any escrow processing activities, including disbursing any trust funds in the escrow agent's possession, custody or control, and the financial institution holding trust funds shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

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10. The examination found that Tran is in violation of section 17423(c) of the Financial Code for processing escrows in violation of the Accusation and Notice of Intention that was issued on February 14, 2011. Tran has continued to engage in escrow processing activities such as opening and closing escrows and issuing receipts.

11. Tran's Escrow is also in violation of CCR 1732.2 for failure to reconcile the trust account on a monthly basis. As part of the Department's examination in March of 2012, it was found that the last trust account reconciliation was completed in December 2011.

III. STATUTORY BASES FOR REVOCATION AND BAR

12. California Financial Code section 17608 provides in pertinent part:

> The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:
>
> (b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

13. California Financial Code section 17423 provides in pertinent part:

> (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . bar from any position of employment, management, or control any escrow agent, or any other person, if the commissioner finds either of the following:
>
> (1) That the . . . bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the escrow agent or to the public.

IV. PRAYER

Complainant finds that, by reason of the foregoing, Respondents have violated California Financial Code sections 17210.2, 17403.2, 17414(a)(1), 17414(a)(2), 17414.1(d), 17419, 17423(c) and California Code of Regulations, title 10, sections 1726, 1732.2, 1738, 1738.2 and 1741.3 and it is in the best interest of the public to revoke the escrow agent's license of Respondent Tran's Escrow

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and to bar Respondent Tran from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that the escrow agent's license of Respondent Tran's Escrow Corporation be revoked, and that Respondent Nga Tran be barred from any position of employment, management or control of any escrow agent.

Dated: June 18, 2012
San Francisco, CA

JAN LYNN OWEN
California Corporations Commissioner

By _____
JOHN R. DREWS
Corporations Counsel

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