

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 BLAINE A. NOBLETT (SBN 235612)
Senior Corporations Counsel
4 320 W. 4th Street, Suite 750
5 Los Angeles, California 90013-2344
6 (213) 576-1396 (213) 576-7181 (Fax)
Attorneys for Complainant
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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA
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11 In the Matter of the Accusation of THE
CALIFORNIA COMMISSIONER OF
12 BUSINESS OVERSIGHT,

) FILE NO. 963-1110
)
) **ACCUSATION TO SUSPEND ESCROW**
) **LICENSE**

13 Complainant,

14 v.

15 THE ESCROW FORUM,

16 Respondent.
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22 The Complainant is informed and believes, and based upon such information and belief,
23 alleges and charges Respondent as follows:

24 **I.**

25 **INTRODUCTION**

26 Respondent The Escrow Forum (“Escrow Forum”) is an escrow agent licensed by the
27 California Commissioner of Business Oversight (“Commissioner”) under the Escrow Law of the
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1 State of California (Fin. Code, § 17000 et seq.)¹ (“Escrow Law”). Charles Kintner (“Kintner”) is
2 Escrow Forum’s president and owner.

3 The Commissioner seeks to suspend Escrow Forum from taking any new escrow business for
4 a period of two weeks on the basis of the following violations of the Escrow Law.

5 II.

6 **FACTUAL BACKGROUND**

7 In or about December 2013, the Commissioner received an anonymous complaint alleging
8 Escrow Forum had engaged in unethical business practices. According to the complainant, Escrow
9 Forum was inflating title and loan payoff charges and hiding the inflated charges in the fee account at
10 the close of escrow. The charges disclosed in the borrower’s closing statement did not accurately
11 reflect the allocation of funds and, therefore, Escrow Forum’s customers did not know how much
12 they were actually paying the company for its services.

13 After receiving the complaint, the Commissioner commenced a special examination of the
14 Escrow Forum at its licensed location on or about December 17, 2013. The Commissioner’s
15 examiner reviewed 45 closed escrow files for overcharges. The examiner discovered that a portion of
16 the escrow fees in 28 files were hidden in the title charges and/or loan payoff charges. The licensee
17 had overstated title and loan payoff charges and kept, as escrow fees, the difference between the
18 actual fees and the stated amount of fees.

19 According to Kintner, Escrow Forum offers a program to its customers called “SkinnyRate
20 II.” Under the SkinnyRate II program, borrowers are quoted one price for Escrow Forum’s services
21 and title charges based on the loan amount. Escrow Forum charges its customers according to the
22 SkinnyRate II program. Kintner instructs his escrow officers to disclose only the standard escrow
23 charges when preparing the estimated and final settlement statements. But, based on the examiner’s
24 review of the escrow files, the escrow fees paid to Escrow Forum were not clearly disclosed to
25 customers on the estimated and final settlement statements. In most of the transactions the
26 Commissioner’s examiner reviewed, Escrow Forum had also failed to disclose, in the final closing
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28 ¹ All further statutory references are to the Financial Code, unless otherwise indicated.

1 statement, the service charges it paid to third parties, such as Federal Express. When those charges
2 were paid, the charges were paid out of the inflated portion of the escrow fees Escrow Forum had
3 collected.

4 The examiner discussed her findings with Kintner and told him that Escrow Forum must
5 disclose its earned escrow fees clearly under the escrow section of the settlement statement in
6 conformity with the Escrow Law. Kintner told the examiner that he was not aware of this requirement
7 but would make sure Escrow Forum complied with the law in the future.

8 III.

9 VIOLATIONS OF THE ESCROW LAW

10 In or about July 2014, the examiner returned to Escrow Forum's licensed location to follow
11 up on the December 2013 special examination. The examiner selected 149 escrow files closed in June
12 2013 and 79 files closed in March 2014, all with earned escrow fees in excess of \$450.00 (\$450 is the
13 standard industry rate for a refinance loan transaction). The examiner discovered that earned escrow
14 fees were not disclosed correctly in 103 of the June 2013 files (totaling \$19,559.00 in borrower
15 overcharges) and 25 of the March 2014 files (totaling \$2,672.00 in borrower overcharges), in
16 violation of Financial Code section 17414, subdivision (a)(2) and California Code of Regulations
17 ("CCR"), title 10, section 1741.3.

18 A sampling of the Escrow Law violations discovered during the special examination are
19 detailed below:

20 1. Undisclosed Escrow Fees – Escrow File No. 103469-MY

21 On or about June 7, 2013, Escrow Forum failed to correctly disclose borrower charges in the
22 amount of \$125.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
23 1741.3.

24 Escrow closed June 7. Title fees disclosed under the loan payoff section of the June 7
25 Amended Final Settlement Statement were \$795.00. Actual title charges totaled \$457.00, per the June
26 10 title payoff invoice. Exhibit A to the Amended Final Settlement Statement showed loan payoff
27 fees to lender Vericrest Financial as \$319,270.28 and \$34,779.47 to Bank of America. But the loan
28 payoff worksheet, prepared by the title company, disclosed loan payoff fees to Vericrest Financial in

1 the amount of \$319,220.28 and \$34,729.47 to Bank of America. Escrow Forum had overstated loan
2 payoff fees by \$100.00. The borrower authorized third-party payments totaling \$313.00. The
3 difference between the title and loan payoff fees disclosed on the Final Settlement Statement and
4 actual title and loan payoff fees was \$125.00 (\$438.00 less an offset/credit of \$313.00 for authorized
5 third-party payments), representing the amount the borrower was overcharged by Escrow Forum after
6 all necessary disbursements.

7 Escrow Forum disclosed \$470.00 in escrow charges in the Amended Final Settlement
8 Statement. The escrow register and fee ticket show Escrow Forum took \$595.00 in escrow fees
9 (\$470.00 plus the \$125.00 in inflated title/loan charges).

10 2. Undisclosed Escrow Fees – Escrow File No. 103862-PST

11 On or about June 17, 2013, Escrow Forum failed to correctly disclose borrower charges in the
12 amount of \$788.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
13 1741.3.

14 Escrow closed on June 17. Title fees disclosed in the June 17 Final Settlement Statement were
15 \$1,720.00. Actual title charges totaled \$712.00, per the June 18 title payoff invoice. The borrower
16 authorized third-party payments totaling \$220.00. The difference between the title fees disclosed on
17 the Final Settlement Statement and actual title charges was \$788.00 (\$1,008.00 less an offset/credit of
18 \$220.00 for authorized third-party payments), representing the amount Escrow Forum overcharged
19 the borrower after all necessary disbursements.

20 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
21 escrow register and fee ticket show Escrow Forum took \$1,238.00 in escrow fees (\$450.00 plus the
22 \$788.00 in title fee overcharges).

23 3. Undisclosed Escrow Fees – Escrow File No. 104206-JWT

24 On or about June 24, 2013, Escrow Forum failed to correctly disclose borrower charges in the
25 amount of \$188.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
26 1741.3.

27 Escrow closed on June 24. Title fees disclosed in the June 11 Final Settlement Statement were
28 \$875.00. Actual title charges totaled \$480.00, per the June 11 title payoff invoice. The borrower

1 authorized third-party payments totaling \$207.00. The difference between the title fees disclosed on
2 the Final Settlement Statement and actual title charges was \$188.00 (\$395.00 less an offset/credit of
3 \$207.00 for authorized third-party payments), representing the amount Escrow Forum overcharged
4 the borrower after all necessary disbursements.

5 Escrow Forum disclosed \$495.00 in escrow charges in the Final Settlement Statement. The
6 escrow register and fee ticket show Escrow Forum took \$683.00 in escrow fees (\$495.00 plus the
7 \$188.00 in title fee overcharges).

8 4. Undisclosed Escrow Fees – Escrow File No. 104247-JWT

9 On or about June 28, 2013, Escrow Forum failed to correctly disclose borrower charges in the
10 amount of \$238.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
11 1741.3.

12 Escrow closed on June 28. Title fees disclosed in the June 28 Final Settlement Statement were
13 \$895.00. Actual title charges totaled \$507.00, per the July 1 title payoff invoice. The borrower
14 authorized third-party payments totaling \$150.00. The difference between the title fees disclosed on
15 the Final Settlement Statement and actual title charges was \$238.00 (\$388.00 less an offset/credit of
16 \$150.00 for authorized third-party payments), representing the amount Escrow Forum overcharged
17 the borrower after all necessary disbursements.

18 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
19 escrow register and fee ticket show Escrow Forum took \$688.00 in escrow fees (\$450.00 plus the
20 \$238.00 in title fee overcharges).

21 5. Undisclosed Escrow Fees – Escrow File No. 105592-OTT

22 On or about March 31, 2014, Escrow Forum failed to correctly disclose borrower charges in
23 the amount of \$50.00 in violation of section 17414, subdivision (a)(2), and CCR, title 10, section
24 1741.3.

25 Escrow closed on March 31. Title fees disclosed in the March 31 Final Settlement Statement
26 were \$695.00. Actual title charges totaled \$457.00, per the March 31 title payoff invoice. The
27 borrower authorized third-party payments totaling \$188.00. The difference between the title fees
28 disclosed on the Final Settlement Statement and actual title charges was \$50.00 (\$238.00 less an

1 offset/credit of \$188.00 for authorized third-party payments), representing the amount Escrow Forum
2 overcharged the borrower after all necessary disbursements.

3 Escrow Forum disclosed \$460.00 in escrow charges in the Final Settlement Statement. The
4 escrow register and fee ticket show Escrow Forum took \$510.00 in escrow fees (\$460.00 plus the
5 \$50.00 in title fee overcharges).

6 6. Undisclosed Escrow Fees – Escrow File No. 105626-PST

7 On or about March 28, 2014, Escrow Forum failed to correctly disclose borrower charges in
8 the amount of \$395.00 in violation of section 17414, subdivision (a)(2), and CCR, title 10, section
9 1741.3.

10 Escrow closed on March 28. Title fees disclosed in the March 28 Final Settlement Statement
11 were \$1,520.00. Actual title charges totaled \$878.00, per the March 28 title payoff invoice. The
12 borrower authorized third-party payments totaling \$247.00. The difference between the title fees
13 disclosed on the Final Settlement Statement and actual title charges was \$395.00 (\$642.00 less an
14 offset/credit of \$247.00 for authorized third-party payments), representing the amount Escrow Forum
15 overcharged the borrower after all necessary disbursements.

16 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
17 escrow register and fee ticket show Escrow Forum took \$845.00 in escrow fees (\$450.00 plus the
18 \$395.00 in title fee overcharges).

19 **IV.**

20 **LAW**

21 Section 17400 provides:

22 The commissioner may from time to time make, amend, and rescind the
23 rules, forms, and orders that are necessary to carry out the provisions of
24 this division, and define any terms, whether or not used in this division,
25 insofar as the definitions are not inconsistent with the provisions of this
26 division. For the purpose of rules and forms, the commissioner may,
27 among other things, classify persons and matters within the
28 commissioner's jurisdiction and may prescribe different requirements
for different classes. The commissioner may, in the commissioner's
discretion, waive any requirement of any rule or form in situations
where in his or her opinion the requirement is not necessary in the
public interest or for the protection of the public.

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Section 17414 provides in relevant part:

(a) It is a violation for any person subject to this division or any director, stockholder, trustee, officer, agent, or employee of any such person to do any of the following:

...

(2) Knowingly or recklessly make or cause to be made any misstatement or omission to state a material fact, orally or in writing, in escrow books, accounts, files, reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

CCR, title 10, section 1741.3 provides:

Upon completion of an escrow transaction an escrow agent shall render to each principal to the escrow transaction a statement of his account in writing. Such statement shall specify all receipts and disbursements of escrow funds for his account. Charges made by the escrow agent for his services, and all disbursements by the escrow agent to a broker or salesman in connection with an escrow transaction shall be clearly designated as such and shall be shown separately from disbursements of the escrow agent. Payments outside of escrow, if shown in the statement, shall be set forth separately from payments by or to the escrow agent. Internet escrow agents may transmit the statement of account electronically over the Internet to the principals to the escrow transaction. In the event a person is not able to electronically receive the statement of account, the Internet escrow agent shall mail a true and correct copy of the statement of account within 24 hours of its completion.

V.

COMMISSIONER’S AUTHORITY TO SUSPEND LICENSE

Section 17423 provides in pertinent part:

(a) The commissioner may, after appropriate notice and opportunity for hearing, by order . . . suspend for a period not exceeding 12 months . . . any escrow agent . . . if the commissioner finds . . . the following:

(1) That the . . . suspension . . . 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.

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VI.
CONCLUSION

The Commissioner finds that, by reason of the foregoing, Escrow Forum has violated sections 17414, and CCR, title 10, section 1741.3 of the Escrow Law.

WHEREFORE, IT IS PRAYED that the escrow agent’s license of The Escrow Forum be suspended for a period of two weeks during which time it shall not accept any new escrow business but may continue to process open escrows under section 17609.

Dated: December 18, 2014
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
Blaine A. Noblett
Senior Corporations Counsel
Enforcement Division