

1 STATE OF CALIFORNIA
2 BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
3 DEPARTMENT OF BUSINESS OVERSIGHT

4 TO: The Escrow Forum
5 23161 Lake Center Drive, Suite 120
6 Lake Forest, California 92630

7 ORDER TO DISCONTINUE VIOLATIONS

8 (For Violations of Financial Code sections 17400 and 17414)

9 The California Commissioner of Business Oversight (“Commissioner”) finds that:

10 1. At all relevant times herein, The Escrow Forum (“Escrow Forum”), a California
11 corporation, was an escrow agent licensed by the Commissioner under the California Escrow Law
12 (Fin. Code, § 17000 et seq.) (“Escrow Law”) and conducted business at 23161 Lake Center Drive,
13 Suite 120, Lake Forest, California.

14 2. At all times relevant herein, Charles Kintner (“Kintner”) was Escrow Forum’s
15 president and owner.

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

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

28 5. According to Kintner, Escrow Forum offered a program to its customers called

1 “SkinnyRate II.” Under the SkinnyRate II program, borrowers were quoted a flat fee, which was one
2 price for Escrow Forum’s base escrow fee, various miscellaneous charges (including loan tie-in fees,
3 document preparation fees, messenger fees and related services), and title charges based on the loan
4 amount Escrow Forum charged its customers according to the SkinnyRate II program. Kintner
5 instructed his escrow officers to state Escrow Forum’s base escrow fee in the “escrow fees” portion
6 of the statement and the charges for both the title insurance policy and the balance of the flat fee
7 under the SkinnyRate II program in the “title charges” portion of the closing statement. In a letter to
8 the Commissioner, Kintner stated he believed this was proper, in part, because the HUD-1 includes
9 escrow fees under the definition of title charges. In the same letter, Kintner noted that regardless of
10 how the fees were detailed or disclosed, Escrow Forum’s customers did not pay more than the flat fee
11 they were originally quoted for escrow fees and title charges. But, based on the examiner’s review of
12 the escrow files, the escrow fees paid to Escrow Forum were not clearly disclosed to customers on
13 the estimated and final settlement statements. In most of the transactions the Commissioner’s
14 examiner reviewed, Escrow Forum had also failed to disclose, in the final closing statement, the
15 service charges it paid to third parties, such as Federal Express. When those charges were paid, the
16 charges were paid out of the overstated portion of the escrow fees Escrow Forum had collected.

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

21 7. In or about July 2014, the examiner returned to Escrow Forum’s licensed location to
22 follow up on the December 2013 special examination. The examiner selected 149 escrow files closed
23 in June 2013 and 79 files closed in March 2014, all with earned escrow fees in excess of \$450.00
24 (\$450 is the standard industry rate for a refinance loan transaction). The examiner discovered that
25 earned escrow fees were not disclosed correctly in 103 of the June 2013 files (totaling \$19,559.00 in
26 charges not properly disclosed to borrowers) and 25 of the March 2014 files (totaling \$2,672.00 in
27 charges not properly disclosed to borrowers), in violation of Financial Code section 17414,
28 subdivision (a)(2) and California Code of Regulations (“CCR”), title 10, section 1741.3.

1 8. A sampling of the Escrow Law violations discovered during the special examination
2 are detailed below:

3 a. Undisclosed Escrow Fees – Escrow File No. 103469-MY

4 On or about June 7, 2013, Escrow Forum failed to correctly disclose borrower charges in the
5 amount of \$125.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
6 1741.3.

7 Escrow closed June 7. Title fees disclosed under the loan payoff section of the June 7
8 Amended Final Settlement Statement were \$795.00. Actual title charges totaled \$457.00, per the June
9 10 title payoff invoice. Exhibit A to the Amended Final Settlement Statement showed loan payoff
10 fees to lender Vericrest Financial as \$319,270.28 and \$34,779.47 to Bank of America. But the loan
11 payoff worksheet, prepared by the title company, disclosed loan payoff fees to Vericrest Financial in
12 the amount of \$319,220.28 and \$34,729.47 to Bank of America. Escrow Forum had overstated loan
13 payoff fees by \$100.00. The borrower authorized third-party payments totaling \$313.00. The
14 difference between the title and loan payoff fees disclosed on the Final Settlement Statement and
15 actual title and loan payoff fees was \$125.00 (\$438.00 less an offset/credit of \$313.00 for authorized
16 third-party payments), representing the amount Escrow Forum failed to properly disclose to the
17 borrower after all necessary disbursements.

18 Escrow Forum disclosed \$470.00 in escrow charges in the Amended Final Settlement
19 Statement. The escrow register and fee ticket show Escrow Forum took \$595.00 in escrow fees
20 (\$470.00 plus the \$125.00 in inflated title/loan charges).

21 b. Undisclosed Escrow Fees – Escrow File No. 103862-PST

22 On or about June 17, 2013, Escrow Forum failed to correctly disclose borrower charges in the
23 amount of \$788.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
24 1741.3.

25 Escrow closed on June 17. Title fees disclosed in the June 17 Final Settlement Statement were
26 \$1,720.00. Actual title charges totaled \$712.00, per the June 18 title payoff invoice. The borrower
27 authorized third-party payments totaling \$220.00. The difference between the title fees disclosed on
28 the Final Settlement Statement and actual title charges was \$788.00 (\$1,008.00 less an offset/credit of

1 \$220.00 for authorized third-party payments), representing the amount Escrow Forum failed to
2 properly disclose to the borrower after all necessary disbursements.

3 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
4 escrow register and fee ticket show Escrow Forum took \$1,238.00 in escrow fees (\$450.00 plus the
5 \$788.00 in title fee overcharges).

6 c. Undisclosed Escrow Fees – Escrow File No. 104206-JWT

7 On or about June 24, 2013, Escrow Forum failed to correctly disclose borrower charges in the
8 amount of \$188.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
9 1741.3.

10 Escrow closed on June 24. Title fees disclosed in the June 11 Final Settlement Statement were
11 \$875.00. Actual title charges totaled \$480.00, per the June 11 title payoff invoice. The borrower
12 authorized third-party payments totaling \$207.00. The difference between the title fees disclosed on
13 the Final Settlement Statement and actual title charges was \$188.00 (\$395.00 less an offset/credit of
14 \$207.00 for authorized third-party payments), representing the amount Escrow Forum failed to
15 properly disclose to the borrower after all necessary disbursements.

16 Escrow Forum disclosed \$495.00 in escrow charges in the Final Settlement Statement. The
17 escrow register and fee ticket show Escrow Forum took \$683.00 in escrow fees (\$495.00 plus the
18 \$188.00 in title fee overcharges).

19 d. Undisclosed Escrow Fees – Escrow File No. 104247-JWT

20 On or about June 28, 2013, Escrow Forum failed to correctly disclose borrower charges in the
21 amount of \$238.00 in violation of section 17414, subdivision (a)(2) and CCR, title 10, section
22 1741.3.

23 Escrow closed on June 28. Title fees disclosed in the June 28 Final Settlement Statement were
24 \$895.00. Actual title charges totaled \$507.00, per the July 1 title payoff invoice. The borrower
25 authorized third-party payments totaling \$150.00. The difference between the title fees disclosed on
26 the Final Settlement Statement and actual title charges was \$238.00 (\$388.00 less an offset/credit of
27 \$150.00 for authorized third-party payments), representing the amount Escrow Forum failed to
28 properly disclose to the borrower after all necessary disbursements.

1 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
2 escrow register and fee ticket show Escrow Forum took \$688.00 in escrow fees (\$450.00 plus the
3 \$238.00 in title fee overcharges).

4 e. Undisclosed Escrow Fees – Escrow File No. 105592-OTT

5 On or about March 31, 2014, Escrow Forum failed to correctly disclose borrower charges in
6 the amount of \$50.00 in violation of section 17414, subdivision (a)(2), and CCR, title 10, section
7 1741.3.

8 Escrow closed on March 31. Title fees disclosed in the March 31 Final Settlement Statement
9 were \$695.00. Actual title charges totaled \$457.00, per the March 31 title payoff invoice. The
10 borrower authorized third-party payments totaling \$188.00. The difference between the title fees
11 disclosed on the Final Settlement Statement and actual title charges was \$50.00 (\$238.00 less an
12 offset/credit of \$188.00 for authorized third-party payments), representing the amount Escrow Forum
13 failed to properly disclose to the borrower after all necessary disbursements.

14 Escrow Forum disclosed \$460.00 in escrow charges in the Final Settlement Statement. The
15 escrow register and fee ticket show Escrow Forum took \$510.00 in escrow fees (\$460.00 plus the
16 \$50.00 in title fee overcharges).

17 f. Undisclosed Escrow Fees – Escrow File No. 105626-PST

18 On or about March 28, 2014, Escrow Forum failed to correctly disclose borrower charges in
19 the amount of \$395.00 in violation of section 17414, subdivision (a)(2), and CCR, title 10, section
20 1741.3.

21 Escrow closed on March 28. Title fees disclosed in the March 28 Final Settlement Statement
22 were \$1,520.00. Actual title charges totaled \$878.00, per the March 28 title payoff invoice. The
23 borrower authorized third-party payments totaling \$247.00. The difference between the title fees
24 disclosed on the Final Settlement Statement and actual title charges was \$395.00 (\$642.00 less an
25 offset/credit of \$247.00 for authorized third-party payments), representing the amount Escrow Forum
26 failed to properly disclose to the borrower after all necessary disbursements.

27 Escrow Forum disclosed \$450.00 in escrow charges in the Final Settlement Statement. The
28 escrow register and fee ticket show Escrow Forum took \$845.00 in escrow fees (\$450.00 plus the

1 \$395.00 in title fee overcharges).

2 Financial Code section 17400 provides:

3 The commissioner may from time to time make, amend, and rescind the
4 rules, forms, and orders that are necessary to carry out the provisions of
5 this division, and define any terms, whether or not used in this division,
6 insofar as the definitions are not inconsistent with the provisions of this
7 division. For the purpose of rules and forms, the commissioner may,
8 among other things, classify persons and matters within the
9 commissioner's jurisdiction and may prescribe different requirements
10 for different classes. The commissioner may, in the commissioner's
11 discretion, waive any requirement of any rule or form in situations
12 where in his or her opinion the requirement is not necessary in the
13 public interest or for the protection of the public.

14 Financial Code section 17414 provides in relevant part:

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

18 . . .

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

23 California Code of Regulations, title 10, section 1741.3 provides:

24 Upon completion of an escrow transaction an escrow agent shall render
25 to each principal to the escrow transaction a statement of his account in
26 writing. Such statement shall specify all receipts and disbursements of
27 escrow funds for his account. Charges made by the escrow agent for his
28 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.

1 By reason of the foregoing, Escrow Forum has engaged in unsafe and injurious practices in
2 violation of sections 17400 and 17414 of the Financial Code and section 1741.3 of title 10 of the
3 California Code of Regulations.

4 Under Financial Code section 17603, The Escrow Forum is ordered to discontinue violating
5 the Escrow Law by inflating title and loan payoff charges in the borrowers' settlement statements,
6 hiding the inflated charges in the fee account at close of escrow, and taking the inflated amounts as
7 additional escrow fees. The Escrow Forum's failure to properly disclose third party charges to
8 consumers constitutes an unsafe and injurious practice.

9 This Order is necessary, in the public interest for the protection of the public, and consistent
10 with the purposes, policies, and provisions of the Escrow Law.

11 Dated: January 23, 2015
12 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

14 By: _____
15 MARY ANN SMITH
16 Deputy Commissioner
17 Enforcement Division
18
19
20
21
22
23
24
25
26
27
28