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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. JACQUELINE BURCHELL, Respondent.	File No.: 963-2547 ACCUSATION

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

I

Respondent Jacqueline Burchell ("Burchell") was at all times relevant herein employed as the escrow manager and an escrow officer at Point Break Escrow, Inc.("Point Break"), an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.). Point Break is currently located at 151 Kalmus Drive, Suite D200, Costa Mesa, California 90601.

II

On or about September 22, 2011, the Department of Corporations ("Department") received information that Burchell was processing fraudulent transactions at Point Break. Based upon such

State of California – Department of Corporations

information, the Commissioner, by and through staff, commenced a special examination of Point Break to review the escrow files concerning ten properties. The examination disclosed that Burchell, who was the escrow officer in each of the escrow files, repeatedly violated the Escrow Law while processing double escrows as described in more detail below.

1. Point Break Escrow #12530-JB

a. On or about January 31, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $1,500.00 to a Robert Urrera in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

b. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(2) by preparing, or causing to be prepared, a Final Master Settlement Statement that misrepresented the payment described in paragraph 1.a. as "miscellaneous fee to split from seller proceeds".

c. On or about January 31, 2011, Burchell further violated Financial Code section 17414(a)(2) by preparing or causing to be prepared a Final Master Settlement Statement that misrepresented a refund to the buyer in the amount of $250.00 as "messenger fees".

d. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short sale approval from the first lien holder provided that the subject property was not to be transferred within 30 days of close of escrow and Burchell was processing another escrow transaction at the same time in which the subject property would be transferred to a third party upon close of escrow.

e. On or about February 1, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $10,500.00 in real estate commissions in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for no commissions as a condition of closing escrow.

2. Point Break Escrow #12617-JB

a. On or about January 31, 2011, Burchell made, or caused to be made, an unauthorized

State of California – Department of Corporations

disbursement of trust funds in the amount of $147,513.83 to Point Break escrow number 12530-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement. This disbursement consisted of buyer deposits, which Burchell transferred to escrow number 12530-JB, for use by the sellers to purchase the property being sold in this escrow.

b. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the lender's instructions specifically provided that escrow "cannot close if sale is subject to seller obtaining title" and "you (escrow) are aware of any other transactions involving the borrower or the subject property in the previous 90 days that have not been approved by lender" and Burchell was processing another escrow transaction at the same time in which the subject property was being acquired by the borrower.

c. On or about February 2, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $20,000.00 to Jameson Rodgers at Home Rescue Foundation in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

3. Point Break Escrow #12533-JB

a. On or about December 30, 2010, Burchell violated Financial Code section 17414(a)(2) by preparing or causing to be prepared two different Final Master Settlement Statements of which neither was accurate.

b. On or about January 12, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $16,500.00 to Uptown Realtors in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement and the short sale approval from the first lien holder provided for no commissions as a condition of closing escrow.

4. Point Break Escrow #12550-JB

a. On or about February 8, 2011, Burchell violated Financial Code section 17404 by failing to maintain a copy of the lender's closing worksheet in the escrow file.

State of California – Department of Corporations

5. Point Break Escrow #12553-JB

a. On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $30,000.00 to Remax of North County in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for no commissions as a condition of closing escrow.

b. On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $69,500.00 to Green Tree Servicing in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for the payment of only $5,000.00 to the second lien holder as a condition of closing escrow.

c. On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $3,216.89 to pay off an HOA lien in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for no payment of HOA liens as a condition of closing escrow.

6. Point Break Escrow #12722-JB

a. On or about April 21, 2011, Burchell violated Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short sale approval from the first lien holder provided for a maximum payment of $18,750.00 in commissions as a condition of closing escrow and Burchell disbursed, or caused to be disbursed, the sum of $63,312.00 in commissions.

b. On or about April 21, 2011, Burchell violated Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short sale approval from the first lien holder provided that the subject property was not to be transferred within 30 days of close of escrow and Burchell was processing another escrow transaction at the same time in which the subject property would be transferred to a third party upon close of escrow.

State of California – Department of Corporations

7. Point Break Escrow #13082-JB

a. On or about April 27, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $1,400.00 to Cellular One in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

b. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $23,174 to Point Break escrow number 12529-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

8. Point Break Escrow #12797-JB

a. On or about March 30, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $150,000.00 to notary public Erick Martin Lopezsalas in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell knew, or should have known, the escrow amendment authorizing the disbursement was forged.

9. Point Break Escrow #12875-JB

a. On or about May 25, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $50,000.00 to Wells Fargo Bank in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for a maximum payment of $3,000.00 to the second lien holder as a condition of closing escrow.

b. On or about May 25, 2011, Burchell violated Financial Code section 17414(a)(2) by preparing, or causing to be prepared, two different Final Master Settlement Statements.

c. On or about June 1, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $16,000.00 to Coldwell Banker in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing such a disbursement and the short sale approval from the first

State of California – Department of Corporations

lien holder provided for maximum payment of $15,250.00 in commissions as a condition of closing escrow.

10. Point Break Escrow #12912-JB

a. On or about April 15, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $138,000.00 to notary public Erick Martin Lopezsalas in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell knew, or should have known, the escrow amendment authorizing the disbursement was forged.

b. On or about April 15, 2011 Burchell violated Financial Code section 17414(a)(2) by preparing, or causing to be prepared, a false Final Master Settlement Statements.

c. On or about April 15, 2011, Burchell violated Financial Code section 17404 by failing to maintain the first and second lien holders' short sale approval documents in the escrow file.

d. On or about April 17, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $35,668.03 to Cellular One in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell knew, or should have known, the escrow amendment authorizing the disbursement was forged.

e. On or about April 17, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $3,500.00 to Point Break escrow number 13041-JB in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell knew, or should have known, the escrow amendment authorizing the disbursement was forged.

11. Point Break Escrow #13041-JB

a. On or about April 21, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $1,000.00 to Cellular One in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

State of California – Department of Corporations

12. Point Break Escrow #12929-JB

a. On or about April 15, 2011, Burchell violated Financial Code section 17404 by failing to maintain the first lien holder short sale approval documents in the escrow file.

13. Point Break Escrow #12941-JB

a. On or about April 15, 2011, Burchell violated Financial Code section 17404 and California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final Master Settlement Statement for the transaction.

14. Point Break Escrow #12962-JB

a. On or about May 4, 2011, Burchell violated Financial Code section 17404 and California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final Master Settlement Statement(s) containing both sides of the transaction.

b. On or about May 4, 2011, Burchell violated Financial Code section 17404 by failing to maintain a copy of the title charges and payoff worksheet in the escrow file.

15. Point Break Escrow #13014-JB

a. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $368,267.38 to Point Break escrow number 12962-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement. Additionally, as this escrow had not closed, ownership of these funds had not yet transferred to the seller, Discounted Property Investments, who with the assistance of Burchell, was using these funds to purchase the subject property in Point Break escrow number 12962-JB. (See paragraph 14 above).

c. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $75,800.00 to Home Mutual Investment in violation of Financial Code sections 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement and payment of fees and/or commissions is prohibited prior to close of escrow.

d. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $37,600.00 to DGF, Inc. in violation of Financial Code

State of California – Department of Corporations

section 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement and payment of fees and/or commissions is prohibited prior to close of escrow.

e. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized disbursement of escrow fees in the amount of $7,525.00 to Point Break in violation of Financial Code section 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and 1738.2 in that payment of fees and/or commissions is prohibited prior to close of escrow.

f. On or about May 5, 2011, Burchell violated Financial Code section 17404 and California Code of Regulations, title 10, section 1741.3 by preparing a Final Master Settlement Statement notwithstanding that the escrow had yet to close.

16. Point Break Escrow #13019-JB

a. On or about May 9, 2011, Burchell violated Financial Code section 17414(a)(2) by misrepresenting on receipt number 944 that the $79,772.50 deposited into escrow was from the buyers, Discount Property Investment, when the funds were monies on deposit in Point Break escrow number 13040-JB (a concurrent escrow wherein Discounted Property Investment was selling the property to another party), which had yet to close. (See paragraph 17 below).

b. On or about May 9, 2011, Burchell violated Financial Code section 17404 by failing to maintain escrow records, i.e., estimated settlement statements referred to as having been received by the title company from escrow were not retained in the escrow file.

c. On or about May 9, 2011, Burchell violated Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short sale approval from the first lien holder provided that the subject property was not to be transferred within 30 days of close of escrow and Burchell was processing another escrow transaction at the same time in which the subject property would be transferred to a third party upon close of this escrow.

d. On or about June 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $3,625.00 to Nabinor, Inc. in violation of Financial

State of California – Department of Corporations

Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

17. Point Break Escrow #13040-JB

a. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $79,772.50 to Point Break escrow number 13019-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement. This disbursement was comprised of funds from the buyers' deposits in this escrow, which Burchell transferred to escrow number 13019-JB to be used by the sellers in this escrow to purchase the property that was being sold in this escrow.

b. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $35,943.00 to D & G, Inc. in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

c. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $63,543.00 to Air Investments, Inc. in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

d. On or about May 9, 2011, Burchell violated Financial Code section 17404 and California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final Master Settlement Statement regarding both sides of the transaction.

e. On or about May 15, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $109,509.08 to Point Break escrow number 12529-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

f. On or about May 15, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $1,500.00 to Point Break escrow number 12531-JB in

State of California – Department of Corporations

violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

18. Point Break Escrow #13026-JB

a. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of $17,969.11 to Point Break escrow number 13014-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

III

California Financial Code 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, or 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 . . . suspension or 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

Complainant finds that, by reason of the foregoing, Respondent Burchell has violated sections 17404, 17414(a)(1), 17414(a)(2), and 17420 of the California Financial Code and sections 1738, 1738.2, and 1741.3 of the California Code of Regulations, and it is in the best interests of the public to bar Respondent Burchell from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondent Burchell be barred from any position of employment, management or control of any escrow agent.

Dated: August 2, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Judy L. Hartley
Senior Corporations Counsel

State of California – Department of Corporations