ESCROW ADVISORY COMMITTEE MEETING

December 17, 2024
10:00 AM – 1:00 PM
300 S. Spring St., 15th floor conference room, Los Angeles, CA 90013
Or via. Microsoft Teams

Department of Financial Protection and Innovation Represented by:

Sheila Oliver, Deputy Commissioner
Paul Liang, Assistant Deputy Commissioner
Gary Suzuki, Special Administrator – Regulatory
Alberto Saucedo, Special Administrator – Regulatory
Sultanna Wan, Special Administrator - Licensing

Committee Members:

Barry Sender, Village Escrow Services / Other Business Ownership
Heidi Cassel, Command Escrow, Inc. / Medium Sized Escrow Company
Jason Watrous, Freedom Escrow /Chairperson EAFC**
Juliana Tu, Viva Escrow! Inc. / Business Specialization
Matthew Davis, Esq., Davis & Davis Law Group, APC
Nancy Silberberg, Altus Escrow, Inc./Past Chairperson EIC*
Patricia J. (P.J.) Garcia, Beach Pacific Escrow, Inc./Chairperson EIC *
Pat Garcia, Beach Pacific Escrow, Inc. / Vice Chairperson EAFC **

* Escrow Institute of California
** Escrow Agents' Fidelity Corporation

1. Welcome and Opening Remarks

Paul Liang welcomed advisory committee members attending the meeting either in person or virtually. Liang conducted a roll call, confirming that a quorum was present, allowing the meeting to proceed.

Liang stated at the last meeting; members inquired about DFPI's implementation costs for transitioning to NMLS. To gather information, Sheila Oliver and Liang reached out to the DFPI's Debt Collector and California Finance Lender Law programs. Both programs recently completed this transition, and there were no implementation costs for DFPI, as the transition primarily involved migrating existing data and processes to the new system. No additional budget allocations were required before or during the migration. Additionally, members previously discussed the examination backlog and agreed to keep it on the agenda to explore potential solutions.

2. Review and Approval of Minutes for 12/17/24 meeting

The advisory members received the minutes of the previous meeting in advance. Nancy Silberberg made a motion to approve the minutes. Heidi Cassel seconded the motion. The minutes were approved.

3. Advisory Committee

Liang described the committee as a bridge between the industry and regulators, offering insights on trends and regulatory issues. He highlighted ongoing recruitment challenges due to statutory limitations and the lack of attendance reimbursement. Two positions, Certified Public Accountant (CPA) and small escrow company representative, have remained vacant since September 2024. Recruiting a CPA has been difficult due to the scarcity of CPAs specializing in escrow audits.

Defining small escrow companies remains challenging since classification depends on trust fund liabilities. Liang outlined thresholds: small (under approximately $604,000 average annual trust liability for the prior year), medium (approximately $604,000 to $1.5 million), and large (over approximately $1.5 million). No qualified small escrow company applicants have applied. He stressed the need for proportional representation but acknowledged concerns over reappointments and a limited candidate pool. Recruitment challenges extend to other categories, including attorneys, due to the small number specializing in Escrow Law. Some members raised concerns about a lack of diversity. Suggestions included adding advisory positions for banks and escrow software providers or removing category-based classifications to broaden participation.

PJ Garcia proposed analyzing licensee distribution to assess economic trends and classification adjustments. She encouraged members to assist in recruitment and noted virtual meetings improve accessibility. Juliana Tu recommended additional notices for the CPA and small escrow company vacancies and suggested a more flexible classification based on expertise. The committee agreed to amplify vacancy recruitment and revisit classification and representation. Some suggested removing categories altogether, arguing industry changes have made rigid classifications outdated. Others proposed incorporating employee count to better reflect company size. Matthew Davis emphasized maintaining representation across company sizes because challenges vary between small and large firms. Instead of eliminating categories, he suggested updating small, medium, and large classifications to reflect industry shifts. Some members proposed using transaction volume, staff size, or specialization instead of trust fund liability for classification. Others advocated, including early-career professionals, to ensure future leadership. Davis suggested incorporating related organizations but noted groups like CLTA might not align with DFPI Escrow regulatory needs.

The committee discussed appointing qualified members. Some noted past CPA applicants lacked escrow experience. While broadening participation is a priority, appointees must bring relevant expertise. Davis raised concerns about preserving institutional knowledge, with some favoring reappointments over filling vacancies with less-qualified candidates.

Silberberg asked if the committee should include at-large members. Cassel supported expanding participation beyond strict company classifications, advocating broader representation for attorneys, accountants, and escrow professionals. She and Silberberg agreed that designated escrow seats should remain but supported adding at-large positions for banks, technology firms, or other relevant sectors. Advisory members suggested creating seats for lending, banking, and technology professionals, citing their contributions in security and fund management. Tu supported this and recommended appointees from groups like the California Mortgage Bankers Association (CMBA).

Liang noted that many small business licensees have zero liabilities due to inactivity, shrinking the pool of viable candidates. Barry Sender stated trust liability alone does not reflect economic realities. He questioned whether dormant businesses should advise the Commissioner and suggested prioritizing experience over financial thresholds. Cassel and Garcia debated whether the department should have discretion in classification. Cassel opposed arbitrary numerical metrics, advocating for industry experience as the key factor. Garcia emphasized fair representation for small businesses while ensuring effective guidance for the Commissioner. Sender proposed defining small businesses by employee count rather than liability size, as some firms operate with minimal staff despite high trust liabilities. Jason Watrous proposed simplifying business classification into two categories, small and large, based on trust liability or branch count. Liang pointed out that some companies hold multiple branch licenses but operate only one office, complicating classification. Pat Garcia stated dormant branches should not be factored into categorization.

Sender supported removing financial thresholds to expand the candidate pool. Tu asked if liability thresholds should be eliminated entirely, and Cassel confirmed that undefined thresholds would be best. Tu expressed concern that larger firms might dominate if small businesses, often lacking time to participate, were not actively encouraged to apply. Silberberg suggested eliminating categorization and allowing applicants to self-identify qualifications. Cassel emphasized inclusivity and ensuring diverse, experienced voices rather than rigid classifications. PJ Garcia clarified that while business classifications exist within the committee, the statute does not define them monetarily. Given this flexibility, she suggested adjusting classifications to align with statutory requirements. Cassel warned that strict thresholds could exclude qualified individuals, citing an example of an experienced professional running a small firm after selling a larger one.

Pat Garcia argued the liability threshold is too low and should be raised to better reflect industry realities. Liang compared the committee's structure to other advisory boards, such as those for Credit Unions and Debt Collectors, which recruit based on qualifications rather than rigid classifications. Garcia and Silberberg agreed escrow companies should not be classified using banking metrics. Watrous proposed evaluating applications holistically, allowing

applicants to provide relevant details without rigid classification. Tu supported recruitment based on qualifications rather than financial metrics. Garcia concluded that unnecessary regulations would only limit the Commissioner's ability to appoint qualified individuals. The committee also discussed cross-industry collaboration. Tu asked if banking or lending sector representatives could join the committee. Silberberg noted past collaborations had been beneficial. PJ Garcia supported the idea, highlighting efforts to create cross-industry workgroups. Tu encouraged members to submit feedback to consolidate recommendations for improving recruitment. Liang acknowledged ongoing challenges in filling vacancies and stressed the need for engaged participants. Silberberg shared an example of a candidate disqualified from the small business category due to liability thresholds, illustrating classification system limitations.

The committee debated how to define company size for eligibility. Cassel noted that modern businesses operate leaner, emphasizing the need for fresh perspectives. Sender cited an example of a single-office escrow firm with 25 employees managing billion-dollar trust balances. Despite their financial volume, their operational model differed from multi-office firms. Liang pointed out that small firms in high-value markets may be disqualified from the small business category due to liability thresholds despite minimal staffing. Silberberg suggested focusing on operational size, such as employee count and office locations. Watrous proposed to require applicants to submit standardized cover pages with key operational details beyond financial metrics. Silberberg emphasized selection criteria should go beyond baseline requirements, like a job application process. Tu clarified that while statutory categories for committee positions are fixed, qualifications could still be evaluated comprehensively. Cassel and Silberberg agreed refining selection methods would ensure the best candidates. Sender reiterated that liability thresholds disproportionately impact small firms handling high-value transactions.

PJ Garcia and Cassel emphasized geographic diversity, particularly representation from Northern California and specialty escrow sectors. They noted remote participation makes regional representation more feasible. Liang added that consumer advocacy representation could provide valuable perspectives. Tu encouraged broader participation, noting that even non-committee members could contribute meaningfully. Silberberg echoed this, urging outreach to fill vacancies. Watrous observed that online attendance remained high, reflecting strong interest in participation.

4. **DFPI Updates**

Liang provides updates about the launch of the newly redesigned DFPI website on November 8. He acknowledges mixed feedback and invites licensees to report incorrect information or broken links so that they can be corrected. He encourages members to explore the website and mentions that more content will be added over the coming months, particularly on the

FAQ page. Liang highlights the upcoming expansion of the FAQ page, which will provide an in-depth introduction to the independent escrow regulatory framework and the stringent requirements for operating within it. The goal is to increase awareness, particularly for entities conducting due diligence on behalf of clients, as many outside the West Coast are unfamiliar with California's regulatory structure for the escrow industry.

5. Escrow Management Training

Liang briefly stated escrow management training's role in compliance, client financial protection, and industry trust. He noted that the DFPI had not offered management training in a number of years, during which regulatory updates, technological advancements, and compliance challenges had emerged. The DFPI aims to revamp the training, focusing on trust account reconciliation, internal controls, regulatory reporting, and client fund management. He invited input on key compliance challenges from advisory members.

PJ Garcia raised concerns about industry professionals complying with inappropriate requests from lenders and brokers. Tu highlighted issues with escrow officers being asked to perform tasks beyond their role. The discussion centered on defining responsibilities and minimizing unnecessary compliance burdens. Silberberg raised concerns about wire handling and operational processes. PJ Garcia noted inconsistencies in company policies and suggested clearer guidance, citing commission disbursements as an example. She also shared an instance where a lender attempted to reverse a funding after recording had been scheduled, creating complications due to a lack of communication between the lender, escrow practitioner, and title company.

Tu and Silberberg emphasized the need for clearer protocols to prevent such situations. Discussion followed on the importance of communication and defined responsibilities in transactions. Silberberg questioned the scope of management training, asking whether it should focus on daily operations. Davis noted that escrow licenses are business licenses and that statutory requirements, rather than best practices, should be the primary focus of training. He cited reconciliation requirements, emphasizing the distinction between regulatory mandates and company policies. Tu observed a trend of bankers and lenders opening independent escrow companies and hiring title professionals unfamiliar with escrow procedures. She noted the need for additional training to ensure proper compliance.

Davis emphasized the need for training on regulatory topics, including fund handling, deposit procedures, and reporting obligations. He noted that many escrow practitioners fail to recognize reportable incidents, possibly due to limited legal resources or training. He suggested including guidance on reporting employee hires and terminations. Silberberg agreed. Davis also raised concerns about compliance with state and federal kickback regulations, describing the industry's approach as inconsistent.

Liang clarified that past compliance training focused solely on escrow law, covering licensing, branch openings, bonding, and other fundamental regulatory topics. The compliance manual, currently under revision, would incorporate advisory members' input and address the increase in escrow companies transitioning from broker oversight to

independent escrow operations. He also noted the growing involvement of international entities in the escrow industry and the need for their compliance training.

Davis questioned whether the DFPI planned to develop new training independently or collaborate with the EIC. Silberberg inquired about the DFPI's role in conducting training. Liang responded that the DFPI was collaborating with the EIC for logistics while retaining responsibility for training content and instruction. Silberberg suggested a hybrid model, where the Department would provide foundational training, followed by a deeper discussion session.

Tu recommended including historical guidance on marketing compliance, referencing past departmental memos. Liang confirmed that some materials were being integrated into FAQs. Silberberg asked about scheduling, noting challenges with venue availability. Liang confirmed that prior training was held at state facilities. Sender noted the lack of a professional designation for escrow managers and suggested that licensees or their designated representatives should participate in structured training. He emphasized that fundamental compliance practices, such as three-way reconciliations, should be reinforced. PJ Garcia noted that while training was offered, attendance was not required. Sender proposed making it mandatory for owners and managers, but Silberberg cautioned that statutory revisions would be necessary. She suggested an alternative approach, partnering with trade associations to encourage participation and notifying new licensees of training opportunities.

The committee agreed that expanding outreach to new licensees and refining training formats would improve compliance. Sender described how he could open an escrow company by hiring an attorney for paperwork and a retired escrow manager for the application, despite lacking operational knowledge. He noted that owners often prioritize business interests over compliance, relying on employees for regulatory adherence. PJ Garcia shared that managers frequently struggle to enforce compliance when owners prioritize business decisions. Silberberg added that many owners don't know what they don't know. Tu noted that while owners have the right to operate as they see fit, there is no requirement for them to educate themselves on best practices. She recalled that regulatory agencies once included training information in approval letters, but such efforts declined due to budget constraints and logistical challenges. Liang emphasized that while the DFPI cannot mandate education, but trade associations can encourage participation. PJ proposed offering classes on a regular schedule, which Tu supported, citing frequent inquiries about training availability.

Tu suggested clear communication of regulatory expectations, including application processes, reporting requirements, and documentation standards. Liang noted that much of this information was historically provided in a comprehensive manual but emphasized the need for interactive engagement. Silberberg highlighted resource limitations, recalling that the last management training session was held a number of years ago. Tu proposed a collaborative approach with the DFPI to offer annual regulatory training and industry groups like the EIC hosting the best practices session. Cassel supported the idea, stressing the need for joint efforts in developing and promoting training programs. Tu emphasized the importance of accurate recordkeeping, particularly for employee tracking and personnel

summaries. PJ noted that day-to-day operational management is not typically covered in regulatory training and suggested that the EIC could fill this gap.

Silberberg inquired about digital records of past training sessions, suggesting they could serve as a foundation for updated materials. PJ Garcia asked about virtual training, but Cassel and Liang expressed concerns about engagement, favoring in-person sessions. The committee agreed that the DFPI training should focus on procedural guidance, while industry organizations could offer best practice training. Members emphasized the need to clarify reporting requirements, particularly for closing audits, as many escrow companies remain unaware of their obligations. Training should focus on high-level expectations and legal requirements.

Committee members discussed logistics, including integrating training into existing industry conferences versus hosting standalone sessions such as a "Super Saturday" event. The feasibility of department-led versus industry-led coordination was also considered. An advisory member suggested training topic on regulatory disparities, particularly exemptions allowing brokers and attorneys to bypass escrow licensing requirements. Committee members also discussed procedural deficiencies, such as improper documentation for branch office openings, and suggested that comprehensive procedural guidelines would improve compliance. The issue of inexperienced owners relying entirely on managers for regulatory adherence was raised, with broad agreement that training should target both groups.

PJ Garcia suggested that training attendance should be mandatory for all new licensees. Cassel agreed, emphasizing that training should focus on owners rather than just managers. Sender reiterated that ignorance of regulations is no excuse for non-compliance. Committee members noted that the last DFPI-led training was held more than 5 years ago, and a renewed commitment was necessary. Liang provided an overview of past training formats, which included general regulatory guidance in the morning and examination and audit expectations in the afternoon. He proposed incorporating historical Commissioner's opinions to provide additional context. Members also discussed training duration, with some advocating a full-day session and others suggesting a condensed format. Liang emphasized the need for adequate time for discussion and questions. Silberberg recommended refining key points in the training manual before finalizing the format.

Cost considerations were discussed, using a state facility for the training would be cost-neutral, while off-site sessions could incur expenses. PJ Garcia suggested that industry stakeholders might contribute funding if needed. Concerns were raised about travel costs for distant training locations. Tu proposed an EIC-hosted meeting where the morning session would focus on department training, followed by an EIC-led afternoon session. The group viewed this as a viable solution, requiring further coordination.

6. Escrow License

The committee discussed the potential elevation of escrow licensing to a professional level. While the EIC formed a study group to explore this idea, progress has been slow due to competing priorities. EIC board members have shown limited enthusiasm for the professional

license, with a key issue being whether licensing changes should be tied to removing existing exemptions. Some advisory members argued that independent escrow companies face a competitive disadvantage compared to brokers and title companies, which operate under different regulatory standards. Concerns were raised that new education and licensing requirements could increase costs without allowing independent firms to adjust fees accordingly.

Davis suggested structuring escrow licensing similarly to real estate brokerages, requiring a designated professional for each company. He cited Washington State's model, where all escrow practitioners must meet the same licensing requirements without exemptions. Advisory members agreed that further analysis was needed to assess the feasibility of adopting a similar framework in California. The committee emphasized the importance of elevating industry standards through education and oversight. Members also highlighted concerns over inconsistent regulation, noting that independent escrow companies face stricter compliance requirements than entities regulated by DOI and DRE.

To address these disparities, Davis proposed a tiered licensing system, with a baseline designation for escrow officers and a higher-level certification for managers. This approach would establish competency standards while minimizing barriers to entry. However, some advisory members worried that requiring registration for lower-level staff could discourage new entrants to the profession.

The discussion also touched on how professional licensing could impact the industry's structure. Some saw it as a way to level the playing field between independent escrow firms and title companies, while others questioned its feasibility given DRE's lobbying influence. Concerns were also raised about bureaucratic expansion and regulatory efficiency. The committee debated whether eliminating exemptions entirely was practical or whether a phased approach would be more politically viable.

Advisory members agreed on the need for a formal proposal outlining implementation steps, legislative changes, and funding mechanisms. They suggested forming a working group to draft the framework, incorporating input from educational institutions to establish a training pipeline.

Committee members acknowledged that modernizing escrow laws would be a long-term effort, likely requiring three to five years for legislative approval. Collaboration between industry professionals and regulatory legal experts will be critical to its success.

7. Escrow Kickbacks

Liang stated that kickbacks in the escrow industry are a recurring concern with serious implications. Kickbacks occur when individuals or businesses offer payments, gifts, or other incentives in exchange for referrals. These practices violate both the Real Estate Settlement Procedures Act (RESPA) and California Financial Code Section 17420. Despite clear legal prohibitions, some industry participants continue these practices, either due to ignorance or deliberate noncompliance. While some may not recognize certain incentives as unlawful

kickbacks, others knowingly exploit loopholes. Advisory members agreed on the need for increased education and enforcement to curb these violations.

An advisory member emphasized that the DFPI and the industry must collaborate to establish clearer guidelines and enforcement mechanisms. While the DFPI can issue penalties, broader awareness and proactive compliance measures are essential for maintaining a fair and transparent business environment. Liang warned that engaging in kickbacks could result in severe consequences, including license suspension or revocation. He stressed that these practices not only harm a company's reputation but also undermine consumer trust and the long-term stability of the escrow industry. Currently, the DFPI’s examination teams are actively investigating multiple cases involving unlawful payments or referral fees. Liang urged any licensees engaging in these practices to cease immediately.

PJ Garcia suggested a more aggressive stance on enforcement. Cassel, drawing from her decades of industry experience, described a competitive landscape where some companies excel in service while others rely on unethical tactics. She recounted instances where real estate agents were offered cash incentives for referrals, making it difficult for independent escrow companies to compete. Cassel noted that while many in the industry are aware of these practices, proving them remains a significant challenge. Competitors who engage in cash kickbacks often operate discreetly, leaving little concrete evidence. When concerns are raised, accused companies frequently dismiss allegations as baseless attacks from competitors. Cassel questioned what actions the industry could take collectively to combat these unfair practices.

Liang acknowledged the difficulty of enforcement without solid proof. While some kickbacks, such as direct cash payments, are easier to identify, others involve more subtle arrangements. Investigating these violations is challenging, as companies continuously find new ways to structure kickbacks to avoid detection. Tu suggested that a broker testifying about receiving payments could significantly strengthen a case. However, Liang noted that such testimony is rare, as those benefiting from kickbacks are unlikely to come forward.

PJ Garcia asked how kickback violations compare to trust account shortages in enforcement priority. She inquired whether these violations typically result in warning letters or more severe consequences. Liang responded that enforcement actions depend on the strength of the evidence, with legal counsel engaged early in the process. He acknowledged that insufficient proof often leads to frustration for both regulators and the industry.

PJ Garcia proposed implementing a reward system for individuals who provide evidence of kickbacks. Pat Garcia supported the idea, questioning whether an explicit offer of money for opening an escrow would constitute sufficient proof. Cassel, however, was skeptical, stating that real estate agents benefiting from kickbacks are unlikely to report them, even with financial incentives. PJ Garcia asserted that even a flyer advertising such payments constitutes a violation, regardless of whether the payment is ever made. Sender and Silberberg agreed, emphasizing that the offer itself is illegal. Sender suggested that the Escrow Law program issue a bulletin reminding the industry of these violations, as such

guidance has not been issued in years. Advisory members supported the need for an updated bulletin.

Liang suggested that if the industry requires DFPI legal guidance on whether specific practices violate the escrow law's referral provisions, they may submit a request for an interpretative opinion from the DFPI's legal division. Advisory members acknowledged that California Financial Code Section 17420 is insufficient to address evolving referral practices. Sender questioned whether the DFPI has authority to enforce Section 8 of RESPA. Sheila Oliver confirmed that RESPA violations also constitute escrow violations. Tu noted that enforcement authority is ineffective if DFPI staff members are unfamiliar with the law. She also asked whether social media postings could serve as sufficient evidence of a violation. Liang responded that it depends on context, as some posts are deliberate marketing efforts while others may be dismissed as personal or unintended actions.

Sender pointed out that while cash transactions are difficult to trace, increased scrutiny could deter participants. He emphasized that while kickbacks cannot be entirely eradicated, making it clear that regulators are investigating could create a chilling effect. Pat Garcia agreed, stating that even small enforcement steps could encourage compliance. Sender further suggested issuing a bulletin to publicly reaffirm that these illegal practices are under review. He questioned why the DFPI could not make public statements about allegations and relevant regulations. Cassel noted that while the DFPI had issued such letters in the past, they were not made public and only served as direct written warnings. Liang confirmed that DFPI does send warning letters, and Davis added that he had seen this type of letter in the past.

PJ Garcia noted that regulatory agencies often communicate when addressing problematic behavior, effectively encouraging self-regulation within the industry. However, she expressed concern that kickback schemes are becoming more sophisticated, particularly with "free seller escrow" offers. Cassel explained that the DRE only conducts audits when complaints are filed, meaning violations may go undetected without formal reports. While proving illicit cash payments is difficult, simply publicizing investigations could deter some bad actors.

Liang agreed that a bulletin would reinforce awareness. He recalled that similar issues were previously addressed in quarterly newsletters, though those publications are no longer in circulation. Cassel emphasized the importance of making this information public rather than keeping it confined to internal communications. Liang acknowledged that kickback practices negatively affect businesses of all sizes, from large firms to small independent operations. He identified financial incentives as the driving force behind these schemes and questioned how to reduce them.

Silberberg shared a recent report from a member about an escrow company advertising free seller escrow services. The member described how a real estate agent, who had a longstanding client relationship, faced backlash after the seller received a letter promoting free escrow services. The seller accused the agent of not acting in their best interest by failing to secure the same free service. This situation placed agents in a difficult position. Cassel argued that the proper response should have been for the agent to explain that such offers are illegal. Davis stated that if executed correctly, a business model does not necessarily need to

change, even if disruptive. Sender countered, arguing that free escrow models create harmful industry precedents and should not be supported.

Cassel initially believed free escrow models could benefit real estate agents but later reconsidered. Sender emphasized that agents must confidently explain why working with standard-fee escrow companies provides better customer service and internal controls. PJ Garcia acknowledged that while compliant low-cost escrow models exist, the advertising strategies used by certain companies have reshaped the industry landscape. The issue has evolved beyond compliance concerns into a larger disruption. Silberberg compared the situation to the National Association of Realtors (NAR) settlement, noting that just as real estate agents must now justify their worth to buyers and sellers, escrow companies must demonstrate why their services remain valuable despite higher fees.

8. Examination Issues

Gary Suzuki noted that examiners frequently identify routine violations during escrow examinations, including issues with trust bank account reconciliations, unresolved old checks, and dormant credit balances in closed escrow accounts due to improperly disbursed title refunds. Other common violations include failure to report employees within ten days, outdated bank signature cards, and non-compliance with escheatment laws.

While these violations are not severe, they must be addressed through regulatory letters. Licensees must respond by correcting the issue, providing supporting documentation, and implementing policies to prevent recurrence. However, Suzuki emphasized that more serious violations have led to administrative actions in recent months, citing the following cases:

Five Star Escrow, Inc. – In September 2024, the DFPI issued an order to discontinue escrow activities due to a $708,000 trust shortage caused by an unauthorized disbursement. The licensee initially failed to replenish the funds but later complied, leading to the rescindment of the order. The case involved a fraudulent email impersonating a dual agent and foreclosure attorney, exploiting weaknesses in verification procedures.

Valley Escrow, Inc. – In October 2024, the DFPI issued a consent order for repeated failures to file annual audit reports and maintain required financial reserves. The company failed to meet tangible net worth requirements and faced penalties, suspension, and monitoring.

Cavalcade Escrow Corporation – The DFPI revoked this company's escrow license for failing to submit its 2022 audit reports, pay assessments, and comply with closure procedures.

Driven Escrow and Grow Escrow, Inc. – In October 2024, the DFPI transitioned these companies from internal conservatorship to an external conservator to oversee the final stages of refund issuance and the winding down of operations.

Suzuki also raised concerns about the growing threat of cyber theft. He highlighted the ongoing risk of business email compromise schemes, where cybercriminals manipulate email

communications to deceive escrow agents into misdirecting funds. He urged the industry to stay vigilant and continually educate staff on cybersecurity best practices. Suzuki shared several recent fraud schemes to underscore the importance of stringent security measures:

Foreign Bank Check Scam – A licensee received a large buyer's deposit check for an escrow transaction, drawn from a foreign bank. The buyer canceled the transaction shortly after depositing the check and demanded an immediate refund. The licensee, following proper procedures, refused to issue a refund until the check cleared. Later, the bank notified the licensee that the check was counterfeit, preventing potential financial loss. This scam exploits urgency and pressure tactics to manipulate escrow officers.

Fraudulent Check Issuance – A fraudster obtained a licensee's routing and bank account number, possibly through dumpster diving or other illicit means, and created multiple fraudulent checks totaling over $200,000. Fortunately, the licensee had implemented Positive Pay, a fraud prevention tool that detects unauthorized checks and ACH transactions. The unauthorized checks were identified in a timely review of the Positive Pay report, and the bank credited the licensee's trust account.

Check Washing Fraud – A licensee reported an incident where a trust check's payee name was altered from a creditor or vendor to an unrecognized personal name. This fraudulent activity, known as check washing, is under investigation. Secure check-printing methods, such as special paper with watermarks and security features, can help mitigate these risks.

The Role of Escrow Agents in Fraud Prevention – Escrow agents play a critical role in safeguarding trust funds and protecting consumers from fraud. Their responsibility goes beyond merely holding funds, it includes proactively detecting and preventing fraud. As fraud schemes evolve, vigilance and diligence are more crucial than ever.

9. Enforcement Actions and Licensing Update

As of November 30, there were 712 licensed escrow companies operating at 1,058 licensed locations. While there has been a slight decrease compared to the previous year, no significant fluctuations in licensing trends have been observed. Current statistics include: 17 pending surrenders, with five submitted since the last advisory meeting. 14 pending main license applications and nine pending branch license applications. Overall, licensing numbers continue to trend upwards. A recent DFPI monthly bulletin announced a special assessment for the upcoming year, along with an increase in hourly examination rates.

10. Public Comments

None

11. Closing Remarks

Liang thanked everyone for their attendance and participation. The next meeting is tentatively scheduled for March 11, 2025, from 10:00 a.m. to 1:00 p.m. at the DFPI Los

Angeles office. If a meeting is required before then, a separate notification will be provided. The meeting adjourned at 1:11 p.m.