

1 PRESTON DuFAUCHARD
California Corporations Commissioner
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4 DEPARTMENT OF CORPORATIONS
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

11	In the Matter of the Accusation of THE)	File No.: 963-1459
12	CALIFORNIA CORPORATIONS)	
13	COMMISSIONER,)	NOTICE OF ERRATA RE: ORDER BARRING
14	Complainant,)	MARY BAVILLE FROM ANY POSITION OF
15	vs.)	EMPLOYMENT, MANAGEMENT OR
16	MARY BAVILLE,)	CONTROL OF ANY ESCROW AGENT
17	Respondent.)	
18)	

20 **TO RESPONDENT:**

21 NOTICE IS HEREBY GIVEN that the Order Barring Mary Baviile From Any Position of
22 Employment, Management or Control issued on March 23, 2010 by the Complainant, Preston
23 DuFauchard, California Corporations Commissioner (“Complainant”) against Mary Baviile
24 (“Respondent”) and served on Respondent on April 18, 2010 contained two typographical errors.

25 The Order Barring Mary Baviile from Any Position of Employment, Management or Control
26 (“Bar Order”) stated in paragraph 6 that “[o]n February 3, 2010, the Commissioner issued a Notice
27 of Intention to Issue Order Pursuant to California Financial Code Section 17423 (Bar From
28 Management or Control of Any Escrow Agent) . . .” The actual Notice of Intention issued by

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Complainant on February 3, 2010 was a “Notice of Intention to Issue Order Pursuant to California Financial Code Section 17423 (Bar From Employment, Management or Control of Any Escrow Agent)”.

The Bar Order also stated in the directive at the end that “Mary Bavage is barred from any position of management or control of any escrow agent.” The correct directive is “Mary Bavage is barred from any position of employment, management or control of any escrow agent.”

Complainant hereby remedies these typographical errors by this Notice of Errata.

Dated: November 10, 2011
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner
Enforcement Division

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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of THE) File No.: 963-1459
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ORDER BARRING MARY BAVILLE FROM
13) ANY POSITION OF EMPLOYMENT,
Complainant,) MANAGEMENT OR CONTROL OF ANY
14) ESCROW AGENT
15 vs.)
16 MARY BAVILLE,)
17 Respondent.)
18 _____)

19 The California Corporations Commissioner (“Commissioner”) finds that:

20 1. Respondent Mary Baviile (“Baviile”) was at all times relevant herein, an escrow
21 officer at the main office of Glen Oaks Escrow ("Glen Oaks"), an escrow agent licensed by the
22 Commissioner pursuant to the Escrow Law of the State of California (California Financial Code
23 Section 17000 et seq.). Glen Oaks has its principal place of business located at 6100 San Fernando
24 Road, Glendale, California.

25 2. In or about February 2007, the Commissioner, by and through his staff, commenced a
26 special examination of the books and records of Glen Oaks. The special examination was
27 commenced after the Department of Corporations (“Department”) received information from the
28 company that it may have a trust account shortage caused by Baviile. The special examination

1 revealed that Bavage had over-drafted escrow accounts and/or made unauthorized disbursements of
2 trust funds to herself or to cover the over-drafts totaling at least \$233,172.60 in violation of Financial
3 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738, 1738.1, and
4 1738.2. A majority of the disbursements were unauthorized as there were no instructions in escrow
5 authorizing the disbursements, and included a disbursement to pay the real estate taxes of Bavage,
6 and numerous transfers of funds between escrows to cover shortages caused by Bavage in other
7 escrows (commonly known as lapping).

8 3. The over-drafts and unauthorized disbursements resulted in a trust account shortage
9 and numerous ongoing debit balances in violation of California Code of Regulations, title 10, section
10 1738.1. Bavage returned at least \$81,290.29 of the trust account shortage and Glen Oaks cured the
11 remaining trust account shortage.

12 4. Examples of unauthorized disbursements of trust funds are described as follows:

13 A. Escrow Number 26228-MB
14 On or about September 3, 2002, Bavage made an unauthorized disbursement of trust
15 funds to pay real estate taxes on her real property in the amount of \$21,886.30 via trust check
16 number 175798 in violation of Financial Code section 17414(a)(1) and California Code of
17 Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement of trust funds
18 caused a debit balance (shortage) to exist in this escrow in the amount of \$21,886.30 in violation of
19 California Code of Regulations, title 10, section 1738.1.

20 B. Escrow Number 26486-MB
21 On or about May 2, 2003, Bavage made an unauthorized disbursement of trust funds
22 to Escrow number 26228-MB in the amount of \$28,426.84 via trust check number 203484 in
23 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,
24 sections 1738 and 1738.2. The unauthorized disbursement in this escrow was used to cover the
25 shortage in Escrow number 26228-MB caused by Bavage's unauthorized disbursement to pay her
26 real estate taxes. While the disbursement described herein cured the shortage in Escrow number
27 26228-MB, it caused a shortage to exist in this escrow in the amount of \$28,426.84 in violation of
28 California Code of Regulations, title 10, section 1738.1.

1 C. Escrow Number 45975-MB

2 On or about January 26, 2006, Baville made an unauthorized disbursement of trust
3 funds to the seller in Escrow number 48767-MB in the amount of \$204,100.00 via wire in violation
4 of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738
5 and 1738.2. This unauthorized disbursement of trust funds caused a shortage to exist in this escrow
6 in the amount of \$204,100.00 in violation of California Code of Regulations, title 10, section 1738.1.

7 D. Escrow Number 48549-MB

8 On or about February 1, 2006, Baville made an unauthorized disbursement of trust
9 funds to the seller in Escrow number 45975-MB in the amount of \$325,000.00 via trust check
10 number 303823 in violation of Financial Code section 17414(a)(1) and California Code of
11 Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement in this escrow was
12 used to pay an authorized disbursement for Escrow number 45975-MB for which insufficient funds
13 remained on deposit due to Baville's unauthorized disbursement of \$204,000.00 from Escrow
14 number 45975-MB described in paragraph 3 above. While the disbursement described herein cured
15 the shortage in Escrow number 45975-MB, it caused a shortage to exist in this escrow in the amount
16 of \$325,000.00 in violation of California Code of Regulations, title 10, section 1738.1.

17 E. Escrow Number 49027-MB

18 (i) On or about March 8, 2006, Baville made an unauthorized disbursement of trust
19 funds to the seller in Escrow number 48549-MB in the amount of \$233,713.32 via trust check
20 number 306220 in violation of Financial Code section 17414(a)(1) and California Code of
21 Regulations, title 10, sections 1738 and 1738.2.

22 (ii) On or about March 13, 2006, Baville made an unauthorized disbursement of trust
23 funds on behalf of the seller in Escrow number 48549-MB in the amount of \$27,349.21 via trust
24 check number 306625 in violation of Financial Code section 17414(a)(1) and California Code of
25 Regulations, title 10, sections 1738 and 1738.2.

26 (iii) On or about March 13, 2006, Baville made an unauthorized disbursement of trust
27 funds on behalf of the seller in Escrow number 48549-MB in the amount of \$75,400.00 via trust
28 check number 306626 in violation of Financial Code section 17414(a)(1) and California Code of

1 Regulations, title 10, sections 1738 and 1738.2.

2 (iv) The unauthorized disbursements in this escrow were used to pay authorized
3 disbursements for Escrow number 48549-MB for which insufficient funds remained on deposit due
4 to Baviile’s unauthorized disbursement of \$325,000.00 from Escrow number 48549-MB described
5 in paragraph 4 above. While the disbursements described herein cured the shortage in Escrow
6 number 48549-MB, they caused a shortage to exist in this escrow in the amount of \$336,462.53 in
7 violation of California Code of Regulations, title 10, section 1738.1.

8 5. The above-described violations constitute grounds under Financial Code section
9 17423 to bar a person from any position of employment, management or control of any escrow
10 agent.

11 6. On February 3, 2010, the Commissioner issued a Notice of Intention to Issue Order
12 Pursuant to California Financial Code Section 17423 (Bar From Management or Control of Any
13 Escrow Agent), Accusation and accompanying documents against Baviile based upon the above, and
14 Baviile was personally served with those documents on March 5, 2010. The Department has
15 received no request for a hearing from Baviile and the time to request a hearing has expired.

16 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent
17 Mary Baviile is barred from any position of management or control of any escrow agent.

18 Dated: March 23, 2010
19 Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

21 By _____
22 Alan S. Weinger
23 Deputy Commissioner
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