

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

6 Attorneys for Complainant
7
8

9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE COMMISSIONER OF) File No.: 963-0037
BUSINESS OVERSIGHT,)
13) NOTICE AND SUMMARY OF FINDINGS
Complainant,) PURSUANT TO CALIFORNIA FINANCIAL
14) CODE SECTION 17621
15 vs.)
16 BUILDERS CONTROL SERVICE CO.,)
17 Respondent.)
18)
19)

20 TO: BUILDERS CONTROL SERVICE CO.
7447 N. Figueroa Street, Suite 305
Los Angeles, California 90041

21
22 1ST ENTERPRISE BANK
818 W. 7th Street, Suite 220
23 Los Angeles, California 90017
24

25 FARMERS AND MERCHANTS BANK
5101 Lakewood Boulevard
26 Lakewood, California 90712
27
28

1 PACIFIC CITY BANK
2 3701 Wilshire Boulevard, Suite 401
3 Los Angeles, California 90010

4 BANC OF CALIFORNIA fka
5 PRIVATE BANK OF CALIFORNIA
6 1880 Century Park East, Suite 104
7 Los Angeles, CA 90067

8 CITIZENS BUSINESS BANK
9 1010 East Colorado Blvd.
10 Pasadena, California 91106

11 Please take notice that the Commissioner of Business Oversight finds:

12 1. On or about January 30, 2014, the Commissioner commenced an action to revoke the
13 joint control agent’s license of Builders Control Service Co. (“Builders Control”) and to bar its
14 president, Joseph E. Cochran (“Cochran”), from any position of employment, management or
15 control. The pleadings were personally served on Builders Control and Cochran on January 31,
16 2014.

17 2. Pursuant to Financial Code section 17423(c), Cochran, upon service of the pleadings,
18 was “immediately prohibited from engaging in any escrow processing activities, including
19 disbursing any trust funds in the escrow agent’s possession, custody or control”. The prohibitions
20 enumerated in Financial Code section 17423(c) were contained in the cover letters personally served
21 on Builders Control and Cochran.

22 3. On or about March 5, 2014, the Commissioner received information that Builders
23 Control, by and through Cochran, had recently transferred funds out of numerous client trust
24 accounts on deposit with 1st Enterprise Bank to a corporate account of its parent company,
25 Insurance/Surety Services, Inc. (“Insurance/Surety”).

26 4. Based upon such information, on or about March 6, 2014, the Commissioner, by and
27 through staff, commenced a special examination of the books and records of Builders Control. The
28 special examination disclosed that in February 2014, after service of the pleadings described above,
Builders Control, by and through Cochran, had transferred funds totaling \$2,334,782.89 out of

1 sixteen (16) client trust accounts on deposit with 1st Enterprise Bank to a corporate account of
2 Insurance/Surety in violation of Financial Code sections 17409 and 17423, subsection(c).

3 5. According to documents provided by Cochran during the special examination,
4 Builders Control was holding client trust funds in at least 4 other banks in addition to 1st Enterprise
5 Bank. The Commissioner has not been able to confirm yet whether Respondents transferred any
6 funds out of client trust accounts to non-trust accounts at those banks.

7 6. The commingling of trust funds with the funds of Insurance/Surety Services, Inc. has
8 caused a shortage to exist in at least sixteen trust accounts in an unknown amount, but possibly
9 \$2,334,782.89 in violation of California Code of Regulations, title 10, section 1738.1.

10 7. The special examination further disclosed that Builders has failed to reconcile its trust
11 accounts since November 30, 2013 in violation of Financial Code section 17404 and California Code
12 of Regulations, title 10, section 1732.2.

13 8. The special examination was cut short on March 6, 2014 as Cochran represented that
14 he had to leave the office early. Respondents were notified on or about March 6, 2014 that further
15 documentation was needed to complete the special examination. Respondents represented that the
16 remaining documentation would be provided to the examiner via email on March 7, 2014. On or
17 about March 7, 2014, at or about 8:40 a.m., the Commissioner's examiner returned to Builders
18 Control, but no one answered the door despite that the lights were on and Cochran's vehicle was in
19 the parking lot. The examiner telephoned Builders Control and Cochran answered stating that he
20 was out in the field and would be all day. Cochran reiterated that he would provide the additional
21 documentation to the examiner that day via email. No further documentation has been received from
22 Builders Control in violation of Financial Code section 17405.

23 9. Based upon the initial findings of the special examination, on or about March 11,
24 2014, the Commissioner made written demand to Builders Control to return the trust funds to the
25 trust accounts and to provide monthly reconciliations for all the trust accounts and other monthly
26 documentation through January 31, 2014 by 4:00 p.m. March 11, 2014. Builders failed to return the
27 trust funds or to provide the requested documentation and reconciliations.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10. Financial Code section 17621 provides in pertinent part:

Whenever it appears to the commissioner that any escrow agent subject to this division:

...

(b) Is conducting escrow business in an unsafe and unauthorized manner;

(c) Has violated its charter or any law of the State of California;

...

the commissioner shall dispatch a written notice and summary of findings, as referred to in Section 17415, to the principal officer of the escrow agent involved or to its manager of record; and such escrow agent shall be afforded a reasonable opportunity to comply or otherwise effect such remedy as the commissioner may deem acceptable. However, should the escrow agent so notified fail to comply within five days of receipt of the notice, or as soon as it appears to the commissioner that no compliance is possible, or in the event prompt delivery of the prescribed written notice is impossible, the commissioner may forthwith take possession of the property and business of such escrow agent and retain possession until such escrow agent resumes business or its affairs be finally liquidated as provided in this chapter. The escrow agent, with the consent of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

11. Based upon the foregoing, the Commissioner finds that Builders Control has violated Financial Code sections 17404, 17405, 17409 and 17423(c) and California Code of Regulations, title 10, sections 1732.2 and 1738.1, and is conducting escrow business in such an unsafe and unauthorized manner, that no compliance is possible.

March 11, 2014

Los Angeles, California

JAN LYNN OWEN

Commissioner of Business Oversight

By _____

Mary Ann Smith

Deputy Commissioner

Enforcement Division