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6 Attorneys for Complainant
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9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA
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12 In the Matter of THE COMMISSIONER OF) File No.: 963-0037
BUSINESS OVERSIGHT,)
13) ORDER TO DISCONTINUE ESCROW
Complainant,) ACTIVITIES PURSUANT TO FINANCIAL
14) CODE SECTION 17415
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

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22 1ST ENTERPRISE BANK
818 W. 7th Street, Suite 220
23 Los Angeles, California 90017
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25 FARMERS AND MERCHANTS BANK
5101 Lakewood Boulevard
26 Lakewood, California 90712
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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 THE COMMISSIONER OF BUSINESS OVERSIGHT FINDS THAT:

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

16 2. Previously on January 30, 2014, the Commissioner commenced an action to revoke
17 the joint control agent’s license of Builders Control and to bar its president, Cochran, from any
18 position of employment, management or control. The pleadings were personally served on Builders
19 Control and Cochran on January 31, 2014.

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

25 4. Based upon the information described in paragraph 1 above, on or about March 6,
26 2014, the Commissioner, by and through staff, commenced a special examination of the books and
27 records of Builders Control. The special examination disclosed that in February 2014, after service
28 of the pleadings described above, Builders Control, by and through Cochran, had transferred funds
totaling \$2,334,782.89 out of sixteen (16) client trust accounts on deposit with 1st Enterprise Bank to

1 a corporate account of Insurance/Surety in violation of Financial Code sections 17409 and 17423,
2 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 the 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 as demanded.
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1 Based upon the foregoing, Builders Control is conducting escrow business in such an unsafe
2 and injurious manner as to render further operations hazardous to the public or to customers.

3 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
4 THEREFORE, it is hereby ORDERED, under the provisions of section 17415 of the Financial Code,
5 that Builders Control Service Co. and any person having in his or her possession any escrow/joint
6 control funds or trust funds immediately discontinue the receipt or disbursement of any escrow or
7 joint control money, documents or other property in its possession, custody or control.

8 This order is to remain in full force and effect until further order of the Commissioner.

9 Section 17415 of the Financial Code provides as follows:

10 (a) If the commissioner, as a result of any examination or from any
11 report made to him or her, shall find that any person subject to this
12 division is in an insolvent condition, is conducting escrow business in
13 such an unsafe or injurious manner as to render further operations
14 hazardous to the public or to customers, has failed to comply with
15 the provisions of Section 17212.1 or 17414.1, has permitted its tangible
16 net worth to be lower than the minimum required by law, has failed to
17 maintain its liquid assets in excess of current liabilities as set forth in
18 Section 17210, or has failed to comply with the bonding requirements
19 of Chapter 2 (commencing with Section 17200) of this division, the
20 commissioner may, by an order addressed to and served by registered
21 or certified mail or personal service on such person and on any other
22 person having in his or her possession or control any escrowed funds,
23 trust funds or other property deposited in escrow with said person,
24 direct discontinuance of the disbursement of trust funds by the parties
or any of them, the receipt of trust funds, the delivery or recording of
documents received in escrow, or other business operations. No person
having in his or her possession any of these funds or documents shall be
liable for failure to comply with the order unless he or she has received
written notice of the order. Subject to subdivision (b), the order shall remain
in effect until set aside by the commissioner in whole or in part, the person
is the subject of an order for relief in bankruptcy, or pursuant to Chapter 6
(commencing with Section 17621) of this division the commissioner has assumed
possession of the escrow agent.

25 (b) Within 15 days from the date of an order pursuant to subdivision (a),
26 the person may request a hearing under the Administrative Procedure Act,
27 Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the
28 Government Code. Upon receipt of a request, the matter shall be set for hearing
to commence within 30 days after such receipt unless the person subject
to this division consents to a later date. If no hearing is requested within
15 days after the mailing of service of such notice and none is ordered by

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the commissioner, the failure to request a hearing shall constitute a waiver of the right for a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

March 11, 2014
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Mary Ann Smith
Deputy Commissioner
Enforcement Division