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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

11	In the Matter of:)	
)	
12	THE COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	
)	
14	Complainant,)	ACCUSATION IN SUPPORT OF ORDER
)	BARRING CUONG DOAN, ALSO KNOWN
15	v.)	AS KEN DOAN, FROM EMPLOYMENT,
)	MANAGEMENT, AND CONTROL OF ANY
16	CUONG DOAN, ALSO KNOWN AS KEN)	ESCROW AGENT
17	DOAN,)	
)	
18	Respondent.)	
)	
19)	
20)	

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

24 **I.**

25 **Introduction**

26 1. The Commissioner of Business Oversight (Commissioner) seeks to bar Respondent
27 Cuong Doan, also known as Ken Doan, (Doan) from any position of employment, management, or

1 control of any escrow agent pursuant to Financial Code section 17423 for numerous violations of the
 2 Escrow Law.

3 2. Doan was at all relevant times herein, an employee and escrow officer at Final
 4 Escrow, Inc. (Final), an escrow agent licensed by the Commissioner pursuant to the Escrow Law
 5 (Fin. Code § 17000 et seq.). Final has its principal place of business located at 17220 Newhope
 6 Street, Suite # 214, Fountain Valley, California 92708.

7 **II.**

8 **March 4, 2016 Examination**

9 3. On or about March 4, 2016, the Commissioner commenced a special examination of
 10 Final after receiving information from Final on February 26, 2016 that Doan misappropriated
 11 approximately \$16,987.75 in Final’s trust funds.

12 4. The special examination revealed that Doan had made unauthorized disbursements
 13 from Final’s trust funds, in an amount totaling \$16,987.75 between January 22, 2015 and November
 14 6, 2015, in the following transactions:

<u>Escrow #</u>	<u>Check #</u>	<u>Check Date</u>	<u>Amount</u>	<u>Date Cleared</u>	<u>Check Issued to</u>
15 1518-KD	35651	01/22/2015	\$1,005.14	02/28/2015	Discover Credit Card Acct ending in 3005
18 1812-KD	35813	03/17/2015	\$1,522.69	03/21/2015	Discover Credit Card Acct ending in 3005
20 1808-KD	35966	05/04/2015	\$2,056.07	05/07/2015	Capital One Credit Card Acct ending in 0726
22 1711-KD	36138	07/06/2015	\$1,365.09	07/11/2015	Capital One Credit Card Acct ending in 0726
24 1967-KD	36194	08/03/2015	\$2,005.69	08/13/2015	Capital One Credit Card Acct ending in 0726
26 1880-KD	36327	09/03/2015	\$4,520.00	09/12/2015	Capital One Credit Card Acct ending in 0726

1	1962-KD	36434	10/05/2015	\$2,056.07	10/15/2015	Capital One Credit Card
2						Acct ending in 0726
3	1917-KD	36502	11/06/2015	<u>\$2,457.00</u>	11/10/2015	Capital One Credit Card
4						Acct ending in 0726
5	Total			\$16,987.75		

6 5. Final first discovered Doan’s attempted misappropriation on December 11, 2015 in
7 Escrow # 1791-GRR. In Escrow # 1791-GRR, Doan issued a stop payment on outstanding trust
8 check # 35802 in the amount of \$678.31 and issued check # 36597 instead to Capital One Credit
9 Card for the same amount. Upon review of the escrow file for Escrow # 1791-GRR, Final President
10 Andrea Park (Park), discovered that there was no written statement or authorization from the
11 principals of Escrow # 1791-GRR authorizing any disbursements to Capital One Credit Card. Doan
12 was also not the escrow officer to Escrow # 1791-GRR. Park put a stop payment on check # 36597
13 upon this discovery.

14 6. Subsequently, Park confronted Doan and asked if the Capital One Credit Card
15 account that check # 36597 was issued to belonged to Doan, but Doan denied it. However, on
16 December 14, 2015, Park contacted Doan again and informed him that she would file a police report
17 and report him to the Department of Business Oversight. Doan subsequently admitted to Park that
18 the Capital One Credit Card account belonged to his brother and that his brother did not know that
19 Doan was using his brother’s credit card. Doan also admitted that he needed that extra money but did
20 not want to ask Park for the extra money. Doan was subsequently terminated from Final on
21 December 14, 2015.

22 7. A review of Final’s escrow records revealed a pattern of Doan disbursing trust funds
23 without authorization to a Capital One Credit Card account ending in 0726 (COCC # 0726) and a
24 Discover Credit Card account ending in (DCC # 3055) as more fully described below:

- 25 a) Escrow # 1808-KD
- 26 On or about May 4, 2015, Doan received a check in the amount of \$2,056.07 to be credited to
- 27 the borrowers. On that same day, Doan issued check # 35966 disbursing \$2,056.07 in trust funds to
- 28

1 COCC # 0726 without any written authorization from the principals of Escrow # 1808-KD
2 authorizing the disbursement, in violation of Financial Code section 17414 and California Code of
3 Regulations, title 10, sections 1738 and 1738.2.

4 b) Escrow # 1962-KD

5 On or about May 29, 2015, Doan received a check in the amount of \$2,056.07 to be credited
6 to the borrowers. On that same day, Doan issued check # 36030 disbursing \$2,056.07 to the
7 borrowers. Subsequently, on October 5, 2015, Doan issued a stop payment on check # 36030 and on
8 the same day, issued check # 36434 disbursing \$2,056.07 in trust funds to COCC # 0726 without any
9 written authorization from the principals of Escrow # 1962-KD authorizing the disbursement, in
10 violation of Financial Code section 17414 and California Code of Regulations, title 10, sections
11 1738 and 1738.2.

12 c) Escrow # 1711-KD

13 On or about April 6, 2015, Doan received a check in the amount of \$1,365.09 to be credited
14 to the borrowers. On that same day, Doan issued check # 35893 disbursing \$1,365.09 to the
15 borrowers. Subsequently, on July 6, 2015, Doan voided check # 35893 and on the same day, issued
16 check # 36138 disbursing \$1,365.09 in trust funds to COCC # 0726 without any written
17 authorization from the principals of Escrow # 1711-KD authorizing the disbursement, in violation of
18 Financial Code section 17414 and California Code of Regulations, title 10, sections 1738 and
19 1738.2.

20 d) Escrow # 1967-KD

21 On or about May 29, 2015, Doan received a check in the amount of \$2,005.69 to be credited
22 to the borrowers. On that same day, Doan issued check # 36031 disbursing \$2,005.69 to the
23 borrowers. Subsequently, on August 3, 2015, Doan issued check # 36194 disbursing \$2,005.69 in
24 trust funds to COCC # 0726 without any written authorization from the principals of Escrow # 1967-
25 KD authorizing the disbursement, in violation of Financial Code section 17414 and California Code
26 of Regulations, title 10, sections 1738 and 1738.2. After issuing check # 36194 to COCC # 0726,
27 Doan issued a stop payment on check # 36031 on August 5, 2015.

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1 e) Escrow # 1880-KD

2 On or about June 30, 2015, Doan issued check # 36096 disbursing \$4,520.00 to Chase Credit
3 Card on behalf of the borrower. On or about September 3, 2015, Doan adjusted check # 36096 to
4 reflect “wrong payee” and issued check # 36327 disbursing \$4,520.00 in trust funds to COCC #
5 0726 without any written authorization from the principals of Escrow # 1880-KD authorizing the
6 disbursement, in violation of Financial Code section 17414 and California Code of Regulations, title
7 10, sections 1738 and 1738.2.

8 f) Escrow # 1917-KD

9 On or about March 12, 2015, Doan issued check # 35808 disbursing \$2,457.00 to the Internal
10 Revenue Service. On or about November 6, 2015, Doan issued a stop order to check # 35808 and on
11 the same day, issued check # 36502 disbursing \$2,457.00 in trust funds to COCC # 0726 without any
12 written authorization from the principals of Escrow # 1917-KD authorizing the disbursement, in
13 violation of Financial Code section 17414 and California Code of Regulations, title 10, sections
14 1738 and 1738.2.

15 g) Escrow # 1518-KD

16 On or about March 28, 2014, Doan issued check # 35072 disbursing \$1,005.14 to the
17 borrowers. On or about January 20, 2015, Doan issued a stop payment on check # 35072. On or
18 about January 22, 2015, Doan issued check # 35651 disbursing \$1,005.14 in trust funds to a
19 Discover Credit Card account ending in 3005 (DCC # 3005) without any written authorization from
20 the principals of Escrow # 1518-KD authorizing the disbursement, in violation of Financial Code
21 section 17414 and California Code of Regulations, title 10, sections 1738 and 1738.2.

22 h) Escrow # 1812-KD

23 On or about March 17, 2015, Doan received a check in the amount of \$1,522.69 to be
24 credited to the borrowers. On that same day, Doan issued check # 35813 disbursing \$1,522.69 in
25 trust funds to DCC # 3005 without any written authorization from the principals of Escrow # 1812-
26 KD authorizing the disbursement, in violation of Financial Code section 17414 and California Code
27 of Regulations, title 10, sections 1738 and 1738.2.

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8. Doan’s unauthorized disbursements resulted in trust fund shortages totaling \$16,987.75 that were subsequently replaced by Final.

III.

Applicable Law

9. Financial Code section 17414 provides in pertinent part:

(a) It is a violation for any person subject to this division or any director, stockholder, trustee, officer, agent, or employee of any such person to do any of the following:

(1) Knowingly or recklessly disburse or cause the disbursal of escrow funds otherwise than in accordance with escrow instructions, or knowingly or recklessly to direct, participate in, or aid or abet in a material way, any activity which constitutes theft or fraud in connection with any escrow transaction.

(2) Knowingly or recklessly make or cause to be made any misstatement or omission to state a material fact, orally or in writing, in escrow books, accounts, files, reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

....

10. Financial Code section 17423 provides:

(a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . 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 . . . 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.

....

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government

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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 or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any escrow processing activities, including disbursing any trust funds in the escrow agent’s possession, custody or control, and the financial institution holding trust funds shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

....

11. California Code of Regulations, title 10, section 1738 provides in pertinent part:

(a) All money deposited in such “trust” or “escrow” account shall be withdrawn, paid out, or transferred to other accounts only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction or pursuant to order of a court of competent jurisdiction.

....

12. California Code of Regulations, title 10, section 1738.2 provides:

An escrow agent shall use documents or other property deposited in escrow only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction, or if not otherwise directed by written or electronically executed instructions, in accordance with sound escrow practice, or pursuant to order of a court of competent jurisdiction.

IV.

Conclusion

13. The Commissioner finds that by reason of the foregoing, Cuong Doan, also known as Ken Doan, violated Financial Code section 17414, in addition to California Code of Regulations,

1 title 10, sections 1738 and 1738.2.

2 14. The Commissioner further finds that based upon the numerous and repeated
3 violations by Cuong Doan, also known as Ken Doan, of the Escrow Law, including misappropriation
4 of trust funds and unauthorized disbursement of trust funds, it is in the best interest of the public to
5 bar Cuong Doan, also known as Ken Doan from any position of employment, management, or
6 control of an escrow agent pursuant to Financial Code section 17423.

7 WHEREFORE, IT IS PRAYED THAT:

8 Cuong Doan, also known as Ken Doan, be barred from any position of employment,
9 management, and control of any escrow agent.

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11 Dated: February 6, 2017
12 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

13
14 By _____
15 JOHNNY VUONG
16 Senior Counsel
17 Enforcement Division
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