

1 DEMETRIOS A. BOUTRIS (CA BAR NO. 124161)
California Corporations Commission
2 ALAN S. WEINGER (CA BAR NO. 86717)
Supervising Counsel
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Trial Counsel
4 Department of Corporations
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 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of THE) Case No.: 963-1870
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
15 vs.)
16 DORIS A. MORROW,)
17 Respondent.)
18 _____)

19 The Complainant is informed and believes, and based upon such information and belief,
20 alleges and charges Respondent as follows:

21 I

22 Respondent Doris A. Morrow ("Morrow") was at all times relevant herein, the president,
23 secretary, treasurer, and owner of Day & Nite Escrow, Inc. ("Day & Nite"), an escrow agent
24 licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant
25 to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.). Day
26 & Nite had its principal place of business located at 778 Town & Country Road, Orange, California
27 92868.
28

II

1
2 On or about December 21, 2001, Day & Nite, through Morrow, applied to the Commissioner
3 to surrender its escrow agent's license. On or about December 27, 2001, the Commissioner
4 commenced proceedings to impose conditions on the surrender of the escrow agent's license of Day
5 & Nite. One such condition was that Day & Nite file with the Commissioner within 105 days from
6 the date of the surrender application a closing audit prepared by a certified public accountant that is
7 acceptable to the Commissioner. Day & Nite was served with the proceedings in accordance with
8 Government Code section 11505. Day & Nite did not request a hearing within the time period
9 allowed by statute, or otherwise. On or about April 10, 2002, an Order Imposing Conditions Upon
10 Surrender of Escrow Agent's License was issued by the Commissioner against Day & Nite.

11 The closing audit from Day & Nite required pursuant to Financial Code section 17406(c) has
12 never been received by the Commissioner despite its due date of April 8, 2002. Written demands
13 from the Commissioner to Day & Nite for submission of the closing audit have gone unanswered.

14 In April 2002, the Commissioner began receiving numerous complaints from principals to
15 escrows handled by Day & Nite, or their representatives, regarding their need for copies of
16 documents and/or re-issuance of checks. In a written communication to the Commissioner dated
17 May 17, 2002, Day & Nite, through Morrow, refused to handle any of these matters claiming that
18 Fidelity National Title ("Fidelity") was now responsible for all open and closed files pursuant to a
19 December 2001 Letter of Understanding. Morrow has since ceased all communications with the
20 Commissioner on these matters or otherwise. The Letter of Understanding between Day & Nite,
21 executed by Morrow and Fidelity clearly provides that Day & Nite, not Fidelity, will be responsible
22 for responding to all closed file inquiries and/or handling any uncashed checks or outstanding
23 balances involving closed files.

24 Previously, on December 21, 2001, Morrow had caused the sum of \$2,580,290.50 to be
25 wired to Fidelity from Day & Nite's trust account on deposit with East West Bank to cover all
26 outstanding balances on the open escrow files transferred by Day & Nite to Fidelity for handling
27 pursuant to the December 2001 Letter of Understanding.
28

1 Subsequently, on April 17, 2002, Morrow closed Day & Nite's trust account at East West
2 Bank by having a cashier's check in the amount of \$142,418.03 issued to Fidelity. This cashier's
3 check, which comprised trust monies for closed escrow file balances and/or outstanding checks, was
4 never been tendered to Fidelity. No principal to an escrow at Day & Nite authorized this
5 disbursement to Fidelity National Title. The Commissioner attempted to contact Morrow regarding
6 this cashier's check to no avail. The whereabouts of this cashier's check is unknown to the
7 Commissioner. Financial Code section 17414 (a)(1) and California Code of Regulations, title 10,
8 sections 1738 and 1738.2 prohibit the disbursement or handling of trust funds or property except as
9 instructed in writing by the escrow principals.

10 The unauthorized disbursement of \$142,418.03 caused a shortage to exist in the trust account
11 in violation of California Code of Regulations, title 10, section 1738.1. For purposes of attempting
12 to ascertain the status of the trust account, the Commissioner, on May 21, 2002, made written
13 demand to Morrow pursuant to Financial Code section 17406 (e) to submit the trust account bank
14 reconciliations for December 2001, and January, February, March, and April 2002 of Day & Nite
15 along with copies of the bank statements. Morrow has failed to submit these reports to the
16 Commissioner, and continues in her failure to submit these reports to the Commissioner.

17 III

18 Morrow's abandonment of Day & Nite's escrow business with respect to the closed files and
19 remaining trust funds, and her other actions, or lack thereof, in violation of the Escrow Law, caused
20 the Commissioner, on June 11, 2002, to issue a Demand For and Order Taking Possession of the
21 Trust Account(s) and Escrow Records of Day & Nite pursuant to Financial Code section 17621 and
22 an Order Appointing Luhmen Tesoro as Conservator pursuant to Financial Code section 17630. The
23 orders were necessary in order to offer any possible protection to the escrow customers of Day &
24 Nite.

25 IV

26 California Financial Code section 17406 (c) provides:

27 A licensee whose license has been surrendered or revoked shall submit
28 to the commissioner, at its own expense, on or before 105 days after
the effective date of such surrender or revocation, a closing audit report
as of such effective date, or for such other period as the commissioner

1 may specify. Such report shall include the information specified by the
2 commissioner. . . .

3 California Financial Code section 17406 (e) provides:

4 A licensee shall make other special reports to the commissioner as the
5 commissioner may from time to time require.

6 California Financial Code section 17414 (a)(1) provides:

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

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

15 California Code of Regulations, title 10, section 1738 provides:

16 All money deposited in such "trust" or "escrow" account shall be
17 withdrawn, paid out, or transferred to other accounts only in accordance
18 with the written escrow instructions of the principals to the escrow
19 transaction or pursuant to order of a court of competent jurisdiction.

20 California Code of Regulations, title 10, section 1738.1 provides:

21 An escrow agent shall not withdraw, pay out, or transfer moneys from
22 any particular escrow account in excess of the amount to the credit
23 of such account at the time of such withdrawal, payment, or transfer.

24 California Code of Regulations, title 10, section 1738.2 provides:

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

IV

California Financial Code section 17423 provides in pertinent part:

(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 made a violation of this division or rule or order of

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

the commissioner, which violation was either known or should have been known by the person committing or causing it or has made material damage to the escrow agent or to the public.

V

Complainant finds that, by reason of the foregoing, Respondent Morrow has violated Sections 17406 (c) and (e) and 17414 (a)(1) of the Financial Code and Sections 1738, 1738.1 and 1738.2 of title 10 of the California Code of Regulations, has caused material damage to the public and the escrow agent, and it is in the best interests of the public to bar Respondent Morrow from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondent Morrow be barred from any position of employment, management or control of any escrow agent.

Dated: September 9, 2002
Los Angeles, CA

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
Judy L. Hartley, Senior Trial Counsel