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8 Attorneys for Complainant

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

11 In the Matter of: )  
12 THE COMMISSIONER OF BUSINESS ) ORDER BARRING SUZANNE R. EWEN  
13 OVERSIGHT, ) FROM EMPLOYMENT, MANAGEMENT, OR  
14 Complainant, ) CONTROL OF ANY ESCROW AGENT  
15 v. )  
16 SUZANNE R. EWEN, )  
17 Respondent. )  
18 )

19  
20 The Commissioner of Business Oversight (Commissioner) finds that:

21 1. South Bay Escrow, Inc. (South Bay Escrow) was licensed by the Commissioner as an  
22 escrow agent on April 2, 1952 pursuant to the Escrow Law (Financial Code section 17000 et seq.).  
23 In or about July 2017, South Bay Escrow informed the Commissioner that it has ceased conducting  
24 business as an escrow agent. South Bay Escrow’s last known principal place of business was  
25 located at: 24236 Walnut Street, Torrance, California 90501.

26 2. Suzanne R. Ewen (Ewen) was, at all relevant times, employed as an escrow manager  
27 of South Bay Escrow.

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I.

**Revocation of South Bay Escrow’s License by the Commissioner**

3. On June 3, 2016, the Commissioner commenced a special examination of the books and records of South Bay Escrow (June 2016 exam). The June 2016 exam revealed that South Bay Escrow conducted business as an escrow agent in violation of the provisions of the Escrow Law, including:

- a) knowingly or recklessly disbursing or causing the disbursement of escrow funds in violation of Financial Code section 17414 subdivision (a), and California Code of Regulations, title 10, section 1738;
- b) failing to properly maintain general and trust account records on a current basis in violation of California Code of Regulations, title 10, sections 1732.2 and 1732.3;
- c) failing to preserve books and records with reference to its escrow accounts in violation of California Code of Regulations, title 10, section 1737.3;
- d) failing to post all receipts and disbursements in violation of California Code of Regulations, title 10, section 1732.1; and
- e) failing to adjust reconciling items timely in violation of California Code of Regulations, title 10, section 1732.2.

4. On August 23, 2017, the Commissioner issued an Order revoking South Bay Escrow’s license for: (i) failure to submit its annual audit report to the Commissioner within 105 days after the close of its fiscal year; (ii) failure to submit a closing audit report as of the date it tendered its license to the Commissioner for surrender; and (iii) failure to make reports required by law or by the Commissioner within ten days from the day designated for the making of the reports, or within any extension of time granted by the Commissioner. The Commissioner’s Order revoking South Bay Escrow’s license is a final Order.

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**II.**

**June 2016 Examination**

(a) Failure to properly maintain general and trust account records on a current basis

5. During the June 2016 exam, the Commissioner's staff requested various books and records, including the trust and general bank reconciliations, general ledgers and surety bond for South Bay Escrow. A review of South Bay Escrow's books and records revealed that Ewen failed to properly maintain general and trust account records on a current basis. The last trust account bank reconciliation South Bay Escrow conducted was in February 2016, while the last general account bank reconciliation it completed was in December 2014. Ewen claimed that the last bank reconciliation for the general account and posting of the general ledgers occurred in December 2014, however she did not provide copies of the records to substantiate her claim. Accordingly, Ewen failed to properly maintain general and trust account records on a current basis in violation of California Code of Regulations, title 10, sections 1732.2 and 1732.3.

(b) Failure to adjust reconciling items in a timely manner

6. A review of the bank reconciliation for South Bay Escrow's trust account for May 2016 disclosed that on December 14, 2015, Ewen withdrew or caused the withdrawal of \$1,000.00 from the trust account instead of the general account in violation of California Code of Regulations, title 10, section 1732.2. The withdrawal caused a trust account shortage of \$1,000.00 from December 14, 2015, until August 17, 2016, when the Commissioner's staff requested that the funds be replaced. Ewen corrected the trust shortage on August 17, 2016, by issuing check number 17163 for \$1,350.00 from the general account number xxxxxx5128, payable to the trust account number xxxxxx9550. A review of the general account bank statement for the month of December 2015 showed that the general account had a balance of \$483.42, as such, the withdrawal \$1,350.00 caused a shortage in the general account.

7. The June 2016 exam further revealed that on April 15, 2016, Ewen withdrew or caused the withdrawal of \$350.00 from the trust account instead of the general account in violation of California Code of Regulations, title 10, section 1732.2. The withdrawal caused a trust account shortage of \$350.00 from April 15, 2016, until August 17, 2016, when the Commissioner's staff

1 requested that the funds be replaced. The trust shortage was corrected on August 17, 2016, when  
2 check number 17163 for \$1,350.00 was issued from the general account #xxxx5128 payable to the  
3 trust account #xxxx9550. A review of the general account bank statement for the month of April  
4 2016, disclosed the general account maintained a balance of \$902.50, which was sufficient to cover  
5 the withdrawal of \$350.00 made on April 15, 2016 but not the entire \$1,350.00 withdrawn from the  
6 trust account.

7 (c) Unauthorized disbursement of trust funds - Escrow Number 17984-TT

8 8. The Commissioner's staff reviewed South Bay Escrow's dormant checks and  
9 related documents relating to Escrow file number 17984-TT. The escrow file was not available  
10 for inspection; however, Ewen provided the Commissioner's staff, a printout of the ledger and  
11 the final escrow statement. A review of escrow file number 17984-TT disclosed that on  
12 November 7, 2006, check number 13783 was issued to a borrower for \$349.53. On July 3, 2015,  
13 check number 13783 was canceled and check number 18201 was issued to Ewen's relative for  
14 \$300.00, leaving a balance of \$49.53 in escrow. The final escrow statement for escrow file  
15 number 17984-TT did not reflect the payment of \$300.00 issued to Ewen's relative. Therefore,  
16 Ewen disbursed or caused the disbursement of funds totaling \$300.00 to her relative without proper  
17 notification to, or authorization from the borrower in violation of Financial Code section 17414  
18 subdivision (a)(1).

19 9. On August 24, 2016, Ewen replaced check number 18201 for \$300.00 with check  
20 number 17165 from the general account under receipt number 18049. The Commissioner's staff  
21 requested that Ewen produce all escrow ledgers that show all the receipts and disbursements  
22 reflected on the final escrow statement. Ewen failed to provide to the Commissioner's staff the  
23 escrow ledger claiming that South Bay Escrow's accounting system automatically deletes all  
24 periods and related transactions that date more than five years from the current date and forwards  
25 only any remaining balance. The Commissioner's staff observed that although escrow closed on  
26 November 7, 2006, the credit balance of \$349.53 was not disbursed until July 6, 2015. Further,  
27 the record showed that the checks issued in the amount of \$300.00, and \$349.53, were both  
28 cancelled on August 24, 2016. Accordingly, in addition to making unauthorized disbursements,

1 Ewen failed to preserve books and records with reference to its escrow accounts in violation of  
2 California Code of Regulations, title 10, section 1737.3.

3 (d) Unauthorized Disbursement of trust funds - Escrow Number 17985-TT

4 10. Escrow file number 17985-TT was not available for inspection. Ewen provided  
5 to the Commissioner's staff a printout of the ledger and the final escrow statement. A review of  
6 Escrow file number 17985-TT disclosed that on or about December 17, 2015, check number  
7 13830, which was initially issued to a borrower, G.N., in the amount of \$812.50, was replaced  
8 with check number 18413 made payable to a different payee, S.B. for the same amount of  
9 \$812.50. The ledger showed the incorrect payee name, G.N. for the check number 18413. In  
10 addition, the final escrow statement did not disclose the disbursement amount of \$812.50 or  
11 reflect the name of S.B. As such, Ewen disbursed or caused the disbursal of funds totaling  
12 \$812.50 to S.B. without notification or authorization from the borrower in violation of Financial  
13 Code section 17414 subdivision (a)(1).

14 11. On August 25, 2016, Ewen replaced the unauthorized disbursement of \$812.50 by  
15 issuing check number 17167, in the amount of \$812.50, made payable to S.B. from the general  
16 account under receipt number 18050. A corrected final escrow statement was not provided.  
17 Instead, Ewen claimed that South Bay Escrow's accounting system automatically deletes all  
18 periods and related transactions that date more than five years from the date of the disbursal. As  
19 a result, the ledger does not disclose all the receipts and disbursements as shown on the final  
20 escrow statement. To date, Ewen has not produced South Bay Escrow's older ledgers that list all  
21 the transactions before the transactions are deleted by its accounting system. Accordingly, in  
22 addition to making unauthorized disbursements, Ewen failed to preserve books and records with  
23 reference to its escrow accounts in violation of California Code of Regulations, title 10, section  
24 1737.3.

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**III.**

**Order Barring Suzanne R. Ewen From Any Position of Employment, Management, and Control of Any Escrow Agent**

12. On February 18, 2018, the Commissioner issued a Notice of Intention to Issue Order Pursuant to California Financial Code Section 17423, Barring Suzanne R. Ewen from any position of Employment, Management or Control of Any Escrow Agent; Accusation and accompanying documents (collectively Accusation). The Accusation was served on Ewen personally on March 31, 2018. There has been no request for a hearing received by the Commissioner in connection with the Accusation and the statutory time period to request a hearing has expired.

13. The violations set forth in Sections I and II above constitute grounds under Financial Code section 17423 to bar a person from any position of employment, management, and control of any escrow agent.

NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Suzanne R. Ewen is barred from any position of employment, management or control of any escrow agent. This order is effective as of the date hereof.

Dated: July 16, 2018  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division