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

11 In the Matter of: ) File No.: 963-0108  
12 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) ORDER TO DISCONTINUE ESCROW  
13 ) ACTIVITIES PURSUANT TO FINANCIAL  
Complainant, ) CODE SECTION 17415  
14 )  
15 v. )  
16 EXECUTIVE ESCROW COMPANY, )  
17 Respondent. )  
18 )

19 TO: EXECUTIVE ESCROW COMPANY  
20 115 South El Camino Real  
San Clemente, California 92672

21 THE COMMISSIONER OF BUSINESS OVERSIGHT (COMMISSIONER) FINDS THAT:

- 22 1. The Commissioner's review of the annual audited report filed by Executive Escrow Company  
23 for the period ended September 30, 2015 has disclosed a liquid asset deficiency in the amount of at  
24 least \$13,302.21, in violation of section 17210 of the California Escrow Law (Fin. Code, §§ 17000 et  
25 seq.) (Escrow Law), which requires an escrow agent to maintain at all times a tangible net worth of  
26 \$50,000.00, including liquid assets of at least \$25,000.00 in excess of current liabilities.

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1 2. On or about February 9, 2016, the Commissioner sent a letter to Executive Escrow Company,  
2 informing of the Commissioner's finding of the liquid asset deficiency in violation of Financial Code  
3 section 17210. The letter demanded that proof of correction be provided to the Commissioner within  
4 30 days and advised that failure to provide a written response would result in referral for  
5 administrative action.

6 3. Due to Executive Escrow Company's failure to respond to the Commissioner's letter dated  
7 February 9, 2016, a follow-up letter was sent to Executive Escrow Company on April 5, 2016. This  
8 letter demanding that the licensee respond in writing to the deficiency concerns within 10 days of the  
9 date of the letter or else be subject to special examination or administrative action.

10 4. As of the date of this Order, Executive Escrow Company has failed to provide the  
11 Commissioner evidence that it is in compliance with the liquid asset requirements of Financial Code  
12 section 17210.

13 5. Additionally, Executive Escrow Company has failed to provide evidence to the Commissioner  
14 that it is in compliance with the bonding requirements of Financial Code section 17202, which  
15 requires, at the time of filing an application for an escrow agent's license, that the applicant deposit  
16 with the Commissioner a bond in the amount of at least \$25,000.00.

17 6. Financial Code section 17202.1 provides that a licensee may, in lieu of and subject to the  
18 same conditions as the bond required by Financial Code section 17202, deposit with the  
19 commissioner a cash bond. Evidence of the cash bond shall be a deposit in the amount specified in  
20 Financial Code section 17202 in a bank authorized to do business in this state, assigned to and  
21 accepted and maintained by the Commissioner, upon those terms as the commissioner may prescribe,  
22 until released by the commissioner.

23 7. On October 20, 2015, as a result of Executive Escrow Company's failure to pay examination  
24 costs as required by Financial Code section 17405.1, the Commissioner contacted the licensee's  
25 designated bank to make a bond claim pursuant to Financial Code section 17202.1. However, the  
26 Commissioner's attempt to collect against the cash-in-lieu deposit was unsuccessful.

27 8. On December 1, 2015, the Commissioner made a written demand upon Executive Escrow  
28 Company to provide evidence of the licensee's compliance with the bonding requirement of Financial

1 Code section 17202 within 10 days of the date of the letter. Specifically, the Commissioner asked  
2 Executive Escrow Company to provide a copy of a current bank account statement evidencing the  
3 deposit of cash in lieu of the bond, assigned to the Commissioner, as permitted by Financial Code  
4 section 17202.1. Executive Escrow Company did not respond to this demand.

5 10. On January 20, 2016, the Commissioner made a written demand upon Executive Escrow  
6 Company to submit evidence of a bond, as required by Financial Code section 17202, within 10 days  
7 of the date of the letter. Certified receipt of this letter was signed by an agent for the licensee on  
8 January 22, 2016.

9 11. As of the date of this Order, Executive Escrow Company has failed to provide the  
10 Commissioner evidence that it has filed the bond required by Financial Code section 17202.

11 Based upon the foregoing, Executive Escrow Company is conducting its escrow business in  
12 such an unsafe or injurious manner as to render further operations hazardous to the public or to  
13 customers.

14 NOW, BASED UPON THE FOREGOING, AND GOOD CAUSE APPEARING  
15 THEREFORE, it is hereby ORDERED, under the provisions of Financial Code section 17415, that  
16 Executive Escrow Company immediately discontinue acceptance of any new escrow or joint control  
17 business, and of money, documents or other property in connection therewith.

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

19 Financial Code section 17415 provides:

20 (a) If the commissioner, as a result of any examination or from any report  
21 made to him or her, shall find that any person subject to this division is in an  
22 insolvent condition, is conducting escrow business in such an unsafe or  
23 injurious manner as to render further operations hazardous to the public or to  
24 customers, has failed to comply with the provisions of section 17212.1 or  
25 17414.1, has permitted its tangible net worth to be lower than the minimum  
26 required by law, has failed to maintain its liquid assets in excess of current  
27 liabilities as set forth in Section 17210, or has failed to comply with the  
28 bonding requirements of Chapter 2 (commencing with Section 17200) of this  
division, the commissioner may, by an order addressed to and served by  
registered or certified mail or personal service on such person and on any other  
person having in his or her possession or control any escrowed funds, trust  
funds or other property deposited in escrow with said person, direct  
discontinuance of the disbursement of trust funds by the parties or any of them,

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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.

(b) Within 15 days from the date of 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 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. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

DATED: May 18, 2016  
Sacramento, California

JAN LYNN OWEN  
Commissioner of Business Oversight

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