

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 JUDY L. HARTLEY (State Bar No. 110628)  
Senior Counsel  
4 Department of Business Oversight  
320 West 4<sup>th</sup> Street, Ste. 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

10  
11 In the Matter of the: ) ESCROW LICENSE NO. 963-1973  
 )  
12 THE COMMISSIONER OF BUSINESS ) ACCUSATION  
13 OVERSIGHT, )  
 )  
14 Complainant, )  
 )  
15 v. )  
 )  
16 KRISTIN FITZPATRICK aka KRISTIN )  
17 STUDENT-FITZPATRICK, )  
 )  
18 Respondent. )

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

22 I

23 **Introduction**

24 1. Respondent Kristin Fitzpatrick a/k/a Kristin Student-Fitzpatrick ("Fitzpatrick") was at  
25 all times relevant herein, an escrow officer at Foundation Escrow Company ("Foundation"), an  
26 escrow agent licensed by the Commissioner of Business Oversight ("Commissioner" or  
27 "Complainant") pursuant to the Escrow Law of the State of California (Financial Code Section  
28 17000 et seq.). Foundation has its principal place of business located at 1660 Hotel Circle North,

1 Suite 716, San Diego, California 92108 although Fitzpatrick worked at Foundation when it was  
2 located 2635 Camino Del Rio South, Suite 204, San Diego, California 92108.

3 **II**

4 **Escrow Law Violations**

5 2. On or about March 13, 2015, the Commissioner, by and through his staff,  
6 commenced a special examination of Foundation to review escrow files handled by Fitzpatrick based  
7 upon information received by the Department of Business Oversight (“Department”) that Fitzpatrick  
8 had been making unauthorized disbursements of trust funds to herself and others. The special  
9 examination disclosed that Fitzpatrick had made at least fifty-three unauthorized disbursements of  
10 trust funds totaling \$42,804.60 between November 16, 2011 and January 14, 2015 in violation of  
11 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
12 1738.2. Each of the unauthorized disbursements of trust funds also caused a shortage to exist in the  
13 trust account in violation of California Code of Regulations, title 10, section 1738.1. Foundation has  
14 cured the trust account shortages caused by the unauthorized disbursements.

15 3. A sampling of the unauthorized disbursements and other violations noted during the  
16 special examination are described as follows:

17 a. On or about July 2, 2014, Fitzpatrick, in escrow number 23647-KS, disbursed  
18 trust funds in the amount of \$4,204.96 to herself by way of trust check number 23909. The  
19 disbursement was unauthorized as there was no signed instruction authorizing the disbursement.  
20 According to the Final Settlement Statement, the \$4,204.96 was for “2014 taxes due”.

21 b. On or about September 4, 2014, in escrow number 23590-KS, Foundation  
22 received a refund from Chicago Title Company in the amount of \$2,526.62 for over payment of  
23 taxes. Instead of refunding the monies to the appropriate escrow party, Fitzpatrick, on or about  
24 October 31, 2014, disbursed those funds to herself via trust check number 25722. The disbursement  
25 was unauthorized as there was no signed instruction authorizing the disbursement.

26 c. On or about September 27, 2013, in escrow number 21056-KS, Foundation  
27 received a refund from Lawyers Title Company in the amount of \$4,968.39, which coupled with the  
28 balance of \$199.00 remaining in escrow number 21056-KS, totaled \$5,167.39. Instead of refunding

1 the monies to the appropriate escrow party, Fitzpatrick, commencing on or about October 2, 2013  
 2 and continuing through November 24, 2014, made 10 disbursements totaling \$3,962.65 to 9  
 3 unrelated escrows as follows:

<u>Check #</u>	<u>Date</u>	<u>Amount</u>	<u>Payee</u>
18555	10/02/13	\$950.00	Escrow #23287
19031	10/28/13	\$340.58	Escrow #23372
19317	11/14/13	\$400.00	Escrow #23584
19318	11/14/13	\$200.00	Escrow #22932
19319	11/14/13	\$350.00	Escrow #22932
19494	11/26/13	\$517.00	Escrow #23544
19703	12/10/13	\$ 65.00	Escrow #23433
25848	11/24/14	\$300.00	Escrow #22694
25849	11/24/14	\$836.07	Escrow #24081
25840	11/24/14	\$ 4.00	Escrow #24238

15 These disbursements were unauthorized as there were no signed instructions  
 16 authorizing them. Fitzpatrick also violated Financial Code section 17414, subdivision (a)(2) in all  
 17 but one of the payee escrows listed immediately above by issuing receipts representing that the trust  
 18 funds unlawfully transferred from escrow number 21056-KS were deposited into escrow by the  
 19 buyer, seller and/or title company.

20 d. On or about November 24, 2014, Fitzpatrick disbursed the remaining  
 21 \$1,204.74 in escrow number 21056-KS to herself via trust check number 25851. There was no  
 22 instruction authorizing this disbursement to Fitzpatrick.

23 e. On or about September 23, 2013, Fitzpatrick, in escrow number 23372-KS,  
 24 disbursed trust funds in the amount of \$315.00 to herself by way of trust check number 18450. The  
 25 sum of \$125.00 of this disbursement was unauthorized as there was no signed instruction authorizing  
 26 it.

27 f. On or about February 13, 2013, in escrow number 21154-KS, Foundation  
 28 received a refund from Corinthian Title Co. in the amount of \$692.12. Instead of refunding the

1 monies to the appropriate escrow party, Fitzpatrick, on or about February 13, 2013, disbursed  
2 \$192.00 of those funds to herself via trust check number 12666 as notary fees. The disbursement  
3 was unauthorized as there was no evidence that Fitzpatrick provided any notary services in the  
4 escrow transaction.

5 g. On or about October 1, 2012, Fitzpatrick, in escrow number 19949-KS,  
6 disbursed trust funds in the amount of \$110.00 to herself by way of trust check number 8691 as  
7 notary fees. The disbursement was unauthorized as there was no evidence that Fitzpatrick provided  
8 any notary services in the escrow transaction.

9 h. On or about October 29, 2012, Fitzpatrick, in escrow number 20859-KS,  
10 disbursed trust funds in the amount of \$288.00 to herself by way of trust check number 9529. The  
11 sum of \$69.00 of this disbursement was unauthorized as there was no signed instruction authorizing  
12 it.

13 i. On or about December 26, 2012, in escrow number 18643-KS, Foundation  
14 received a refund from Lawyers Title Company in the amount of \$850.00. Instead of refunding the  
15 monies to the appropriate escrow party, Fitzpatrick, on or about December 26, 2012, disbursed those  
16 funds to the general account of Foundation via trust check number 11374. The disbursement was  
17 unauthorized as there was no signed instruction authorizing the disbursement.

18 j. On or about July 26, 2012, Fitzpatrick, in escrow number 18505-KS,  
19 disbursed trust funds in the amount of \$325.00 to herself by way of trust check number 6978. The  
20 disbursement was unauthorized as there was no evidence that Fitzpatrick provided any notary  
21 services to the party charged in the escrow transaction.

22 4. A chart describing the other 16 unauthorized disbursements of trust funds Fitzpatrick  
23 made to herself totaling \$14,070.93 is attached and incorporated herein as Exhibit A

24 5. A chart describing the other 18 unauthorized disbursements of trust funds Fitzpatrick  
25 made to unrelated escrows totaling \$15,163.70 is attached and incorporated herein as Exhibit B.

26 ///

27 ///

28 ///

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

**III**

**Bar Statute**

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 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.

**IV**

**Conclusion**

Complainant finds that, by reason of the foregoing, Respondent Kristin Fitzpatrick has violated Financial Code section 17414, subdivisions (a)(1) and (a)(2) and California Code of Regulations, title 10, sections 1738, 1738.1 and 1738.2, and it is in the best interests of the public to bar Respondent Kristin Fitzpatrick from any position of employment, management or control of any escrow agent.

**V**

**Prayer**

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

Dated: June 17, 2015  
Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
Judy L. Hartley  
Senior Counsel