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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)
12 THE COMMISSIONER OF BUSINESS) ORDER BARRING KRISTIN FITZPATRICK
13 OVERSIGHT,) AKA KRISTIN STUDENT-FITZPATRICK
14) FROM ANY POSITION OF EMPLOYMENT,
14 Complainant,) MANAGEMENT OR CONTROL OF ANY
15) ESCROW AGENT
15 v.)
16)
16 KRISTIN FITZPATRICK aka KRISTIN)
17 STUDENT-FITZPATRICK,)
18)
18 Respondent.)

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

21 1. Respondent Kristin Fitzpatrick a/k/a Kristin Student-Fitzpatrick (“Fitzpatrick”) was at
22 all times relevant herein, an escrow officer at Foundation Escrow Company (“Foundation”), an
23 escrow agent licensed by the Commissioner of Business Oversight ("Commissioner" or
24 "Complainant") pursuant to the Escrow Law of the State of California (Financial Code Section
25 17000 et seq.). Foundation has its principal place of business located at 1660 Hotel Circle North,
26 Suite 716, San Diego, California 92108 although Fitzpatrick worked at Foundation when it was
27 located 2635 Camino Del Rio South, Suite 204, San Diego, California 92108.
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1 2. On or about March 13, 2015, the Commissioner, by and through his staff,
2 commenced a special examination of Foundation to review escrow files handled by Fitzpatrick based
3 upon information received by the Department of Business Oversight (“Department”) that Fitzpatrick
4 had been making unauthorized disbursements of trust funds to herself and others. The special
5 examination disclosed that Fitzpatrick had made at least fifty-three unauthorized disbursements of
6 trust funds totaling \$42,804.60 between November 16, 2011 and January 14, 2015 in violation of
7 Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10,
8 sections 1738 and 1738.2. Each of the unauthorized disbursements of trust funds also caused a
9 shortage to exist in the trust account in violation of California Code of Regulations, title 10, section
10 1738.1. Foundation has cured the trust account shortages caused by the unauthorized disbursements.

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

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

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

22 c. On or about September 27, 2013, in escrow number 21056-KS, Foundation
23 received a refund from Lawyers Title Company in the amount of \$4,968.39, which coupled with the
24 balance of \$199.00 remaining in escrow number 21056-KS, totaled \$5,167.39. Instead of refunding
25 the monies to the appropriate escrow party, Fitzpatrick, commencing on or about October 2, 2013
26 and continuing through November 24, 2014, made 10 disbursements totaling \$3,962.65 to 9
27 unrelated escrows as follows:
28

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| | <u>Check #</u> | <u>Date</u> | <u>Amount</u> | <u>Payee</u> |
|----|----------------|-------------|---------------|---------------|
| 1 | | | | |
| 2 | 18555 | 10/02/13 | \$950.00 | Escrow #23287 |
| 3 | 19031 | 10/28/13 | \$340.58 | Escrow #23372 |
| 4 | 19317 | 11/14/13 | \$400.00 | Escrow #23584 |
| 5 | 19318 | 11/14/13 | \$200.00 | Escrow #22932 |
| 6 | 19319 | 11/14/13 | \$350.00 | Escrow #22932 |
| 7 | 19494 | 11/26/13 | \$517.00 | Escrow #23544 |
| 8 | 19703 | 12/10/13 | \$ 65.00 | Escrow #23433 |
| 9 | 25848 | 11/24/14 | \$300.00 | Escrow #22694 |
| 10 | 25849 | 11/24/14 | \$836.07 | Escrow #24081 |
| 11 | 25840 | 11/24/14 | \$ 4.00 | Escrow #24238 |

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

17 d. On or about November 24, 2014, Fitzpatrick disbursed the remaining
18 \$1,204.74 in escrow number 21056-KS to herself via trust check number 25851. There was no
19 instruction authorizing this disbursement to Fitzpatrick.

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

24 f. On or about February 13, 2013, in escrow number 21154-KS, Foundation
25 received a refund from Corinthian Title Co. in the amount of \$692.12. Instead of refunding the
26 monies to the appropriate escrow party, Fitzpatrick, on or about February 13, 2013, disbursed
27 \$192.00 of those funds to herself via trust check number 12666 as notary fees. The disbursement
28 was unauthorized as there was no evidence that Fitzpatrick provided any notary services in the

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1 escrow transaction.

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

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

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

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

19 4. Fitzpatrick, between November 16, 2011 and January 14, 2015, made another 16
20 unauthorized disbursements of trust funds to herself totaling \$14,070.93.

21 5. Fitzpatrick, between January 4, 2013 and December 19, 2014, made another 18
22 unauthorized disbursements of trust funds to unrelated escrows totaling \$15,163.70.

23 6. On June 17, 2015, the Commissioner issued a Notice of Intention to Issue Order
24 Pursuant to California Financial Code Section 17423 (Bar From Employment, management or
25 Control of Any Escrow Agent), Accusation and accompanying documents against Fitzpatrick based
26 upon the above described findings. Fitzpatrick was personally served with those documents on
27 September 9, 2015.

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7. The Commissioner has received no request for a hearing from Fitzpatrick and the time period in which to request a hearing pursuant to Financial Code section 17423, subdivision (b) has expired.

8. The above described violations constitute grounds under Financial Code section 17423 to bar a person from any position of employment, management or control of any escrow agent and it is in the best interests of the public to bar Fitzpatrick from any position of employment, management or control of any escrow agent.

THEREFORE, it is hereby ordered that Respondent Kristin Fitzpatrick a/k/a Kristin Student-Fitzpatrick is barred from any position of employment, management or control of any escrow agent. This Order is effective as of the date hereof.

Dated: September 29, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Mary Ann Smith
Deputy Commissioner
Enforcement Division