

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 JOHNNY VUONG (State Bar No. 249570)
Senior Counsel
4 Department of Business Oversight
5 320 W. 4th Street, Suite 750
Los Angeles, California 90013
6 Telephone: (213) 576-7585
7 Facsimile: (213) 576-7181
Attorneys for Complainant

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

12 In the Matter of:

13 THE COMMISSIONER OF BUSINESS
14 OVERSIGHT,

15 Complainant,

16 v.

17 JIN YONG KIM, JULIA EUGENE KIM, AND
18 KAY KYONG HUI CHANG,

19 Respondents.
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ORDER BARRING JIN YONG KIM FROM
ANY POSITION OF EMPLOYMENT,
MANAGEMENT AND CONTROL OF ANY
ESCROW AGENT

(Financial Code section 17423)

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

23 **I.**

24 **Introduction**

25 1. California Escrow Service, Inc. (“CES”) is an escrow agent licensed by the
26 Commissioner pursuant to the Escrow Law of the State of California (Financial Code section 17000
27 et seq.), with its principal place of business at 3580 Wilshire Blvd., Suite # 710, Los Angeles, CA
28 90010. At all relevant times, Jin Yong Kim (“Jin Kim”) was employed at CES as an escrow assistant

1 to Nancy Kim, the President of CES.

2 **II.**

3 **July 5, 2011 Examination – Jin Yong Kim**

4 2. On July 1, 2011, the Commissioner conducted a special examination of CES based
5 upon a letter from CES indicating that Jin Kim, an employee of CES, made unauthorized
6 disbursements to himself and third parties. The Commissioner’s examiner met with Julia Kim at CES
7 and requested that CES provide a report reflecting all receipts received and checks issued by “Jin
8 Yong Kim.” Subsequently, the Commissioner’s examiner reviewed all the escrow ledgers and escrow
9 files that appeared on the report and discovered that Jin Kim violated multiple provisions of the
10 Escrow Law in two escrow transactions as described in more detail below:

11 **A.**

12 **Escrow Number 6058-NK**

13 **1.**

14 **Knowingly Making Unauthorized Disbursements**

15 3. On or about January 4, 2010, Jin Kim disbursed escrow funds without any written
16 instructions in the escrow file, in violation of Financial Code section 17414, subdivision (a)(1) and
17 California Code of Regulations, title 10, sections 1738 and 1738.2:

18 a) Jin Kim issued Check Number 26830 to Pioneer Investment Properties, Inc. in the
19 amount of \$3,050.00. The check was signed by Jin Kim and Nancy Kim;

20 b) Jin Kim issued Check Number 26831 to himself in the amount of \$1,031.74. The
21 check was signed by Jin Kim and Julia Kim; and

22 c) Jin Kim issued Check Number 26833 to himself in the amount of \$125.00. The check
23 was signed by Jin Kim and Julia Kim.

24 4. On or about January 11, 2010, Jin Kim issued two personal checks to CES as the
25 payee to replace the funds disbursed from the trust account to him. One personal check was in the
26 amount of \$1,031.74, while the other was in the amount of \$125.00. Jin Kim issued two CES trust
27 receipts for both personal checks on or about January 11, 2010.

28 5. On or about October 18, 2011, the Commissioner’s examiner issued a demand letter to

1 Nancy Kim to replace Jin Kim’s unauthorized disbursements which created a debit balance totaling
2 \$3,050.00 for Escrow 6058-NK. Nancy Kim replaced the trust funds on October 18, 2011, through a
3 \$3,050.00 check issued from CES’s general account to CES’s trust account.

4 **2.**

5 **Failing To Properly Disclose Charges on Settlement Statements**

6 6. A review of the escrow file for Escrow 6058-NK also revealed that Jin Kim failed to
7 properly disclose charges on the HUD-1 Settlement Statement (“settlement statement” or “closing
8 statement”) presented to the parties underlying the transaction in violation of California Code of
9 Regulations, title 10, section 1741.3 as described in more detail below:

- 10 a) Jin Kim disclosed on the closing statement that a pest inspection fee of \$75.00 was
11 charged to the seller while the invoice shows that the pest inspection cost was really \$450.00;
- 12 b) Jin Kim disclosed on the closing statement that a notary fee of \$50.00 was charged to
13 the seller while there is no invoice in the file demonstrating that any notary services were performed;
- 14 c) Jin Kim disclosed on the closing statement that a processing fee of \$1,051.11 was
15 charged to the seller while there are no invoices for a processing fee or any written statement
16 identifying who the processing fee is paid to; and
- 17 d) The total amount of incorrect charges totaled \$726.11.

18 7. In addition, the Commissioner’s examiner found that while the master settlement
19 statement specified that cash proceeds of \$3,357.22 were due to the seller, the short-sale lender’s
20 instructions provided that the seller had no authorization to receive any proceeds at the close of
21 escrow. Jin Kim’s inclusion of cash disbursements to the seller on the master settlement statement in
22 direct contradiction to the short-sale lender’s actual instructions violated California Code of
23 Regulations, title 10, section 1738 and California Code of Regulations, title 10, section 1741.3.

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B.

Escrow Number 6125-NK

1.

Knowingly Making Unauthorized Disbursements

8. On or about December 30, 2009, Jin Kim disbursed escrow funds without any written instructions in the escrow file, in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2:

- a) Jin Kim issued Check Number 26797 to Accel Properties, Inc. in the amount of \$3,000.00. The check was signed by Jin Kim and Julia Kim;
- b) Jin Kim issued Check Number 26801 to himself in the amount of \$476.25. The check was signed by Jin Kim and Julia Kim; and
- c) Jin Kim issued Check Number 26802 to himself in the amount of \$2,358.96. The check was signed by Jin Kim and Julia Kim.

9. On or about January 8, 2010, Jin Kim issued a personal check to CES as the payee to replace the funds disbursed from the trust account to him. The personal check was in the amount of \$2,358.96. Jin Kim issued a CES trust receipt for the personal check on or about January 11, 2010.

10. On or about January 15, 2010, the remaining trust funds were replaced through a \$476.25 check issued from CES's general account. Jin Kim issued a CES trust receipt for the general account check on or about January 15, 2010.

11. On or about October 18, 2011, the Commissioner's examiner issued a demand letter to Nancy Kim to replace Jin Kim's unauthorized disbursements which created a debit balance totaling \$3,000.00 for Escrow 6125-NK. Nancy Kim replaced the trust funds on October 18, 2011, through a \$3,000.00 check issued from CES's general account to CES's trust account.

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Failing to Properly Disclose Charges on Settlement Statements

12. A review of the escrow file for Escrow 6125-NK also revealed that Jin Kim failed to properly disclose charges on the closing statement in violation of California Code of Regulations, title 10, section 1741.3 as described in more detail below:

a) Jin Kim disclosed on the closing statement that a pest inspection fee of \$149.07 was charged to the seller while the invoice shows that the pest inspection cost was really \$90.00;

b) Jin Kim disclosed on the closing statement that a title insurance fee of \$1,236.00 was charged to the seller while the invoice shows that the title insurance cost was really \$1,297.00;

c) Jin Kim disclosed on the closing statement that a title tax of \$3,000.00 was charged to the seller while there is no invoice in the file demonstrating such a charge;

d) Jin Kim disclosed on the closing statement that taxes for 2009 and 2010 amounted to \$4,500, while the invoice shows that the proper charge was really \$2,114.11;

e) Jin Kim disclosed on the closing statement that a refund to Chase Home Finance of \$2,358.96 was charged to the seller while there is no invoice in the file showing that such a refund was due;

f) Jin Kim failed to disclose on the closing statement a federal express fee of \$25.00 for the title; and

g) The inflated amount of incorrect charges totaled \$7,717.92.

III.

Order Barring Jin Yong Kim Pursuant to Financial Code Section 17423

On August 13, 2015, the Commissioner issued a Notice of Intention to Issue Order Pursuant to Financial Code Section 17423 (Bar from Employment, Management, or Control of Any Escrow Agent), Accusation and accompanying documents against Jin Kim and Jin Kim was personally served with those documents on November 19, 2015.

There has been no request for a hearing received by the Commissioner and the statutory time period to request a hearing has expired.

The above-described violations constitute grounds under Financial Code section 17423 to bar

1 a person from any position of employment, management or control of any escrow agent.

2 THEREFORE, it is hereby ordered that Respondent Jin Yong Kim is barred from any position
3 of employment, management or control of any escrow agent.

4 This Order is effective as of the date hereof.

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6 Dated: December 14, 2015
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

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By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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