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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA
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11 In the Matter of the Accusation of THE) FILE NO. 963-1110
CALIFORNIA COMMISSIONER OF)
12 BUSINESS OVERSIGHT,) **ACCUSATION**
13)
Complainant,)
14 v.)
15 DARIEN KINTNER, as an individual,)
16 Respondent.)
17)
18)
19)
20)

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

23 **I.**
24 **INTRODUCTION**

25 The California Commissioner of Business Oversight ("Commissioner") seeks to bar Darien
26 Kintner from any position of employment, management or control of any escrow agent based upon
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1 his violations of the California Escrow Law (Fin. Code, § 17000 et seq.)¹ (“Escrow Law”), including
2 knowingly or recklessly causing the unauthorized disbursement of escrow trust funds totaling at least
3 \$2,700.

4 II.

5 FACTUAL BACKGROUND

6 The Escrow Forum (“Escrow Forum”) is a family-owned business and California-licensed
7 escrow agent.

8 Darien Kintner was Escrow Forum’s vice president and director until at least November 12,
9 2010, when he resigned from the company.

10 Charles Kintner, Escrow Forum’s president and owner, is Darien Kintner’s father.

11 On or about November 3, 2010, the Commissioner commenced a regulatory examination at
12 Escrow Forum’s licensed location. The examiner provided Darien Kintner with a list of items she
13 needed to complete the examination, including a list of outstanding checks as of October 31, 2009.

14 When the examiner returned to perform the follow-up portion of her exam on November 16,
15 2010, she met with Charles Kintner who informed her that Darien Kintner had resigned from the
16 company. The examiner asked Charles why Darien Kintner had resigned and he responded that his
17 son had “done something stupid.” The examiner then asked what it was Darien Kintner had done, and
18 Charles responded that his son had taken money from the trust account for his own personal use—
19 approximately \$2,700—from escrow file number 79652. The examiner asked Charles Kintner if his
20 son had signing privileges on the trust account and he responded that his son did have signing
21 privileges in his capacity as Escrow Forum’s vice president and escrow manager. She then asked
22 Charles how many times Darien Kintner had made unauthorized disbursements from the trust account and
23 he responded that, to his knowledge, it was just the one time. Charles Kintner allegedly demanded his
24 son replace the trust funds, and on November 10, 2010, Darien Kintner wrote a personal check to the
25 Escrow Forum in the amount of \$2,700 to cover the trust loss.

26 The examiner subsequently demanded Charles Kintner provide her with a written explanation
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28 ¹ All further statutory references are to the Financial Code, unless otherwise indicated.

1 discovered that Darien Kintner had failed to mail check number 441795 and it remained in the
2 escrow file, uncashed, for approximately two years.

3 According to the escrow ledger, on June 15, 2010, check number 456180 was re-issued in the
4 same amount (\$2,700) to the borrower. But when the examiner reviewed a copy of the cancelled
5 check she discovered that the payee was American Express and not the borrower as the escrow ledger
6 showed. Darien Kintner had issued check number 456180 to pay his personal American Express bill.

7 Violations discovered during the special examination concerning Darien Kintner’s activities
8 are detailed below:

9 1. Unauthorized Disbursement of Trust Account Funds – Escrow No. 79652

10 On or about June 15, 2010, Darien Kintner caused an unauthorized disbursement of trust
11 funds to be made to American Express in the amount of \$2,700, when he cancelled trust check
12 number 441795, originally issued to the borrower, and reissued check number 456180 to American
13 Express to pay his personal debts in violation of section 17414, subdivision (a)(1) and CCR sections
14 1738 and 1738.2.

15 **IV.**

16 **LAW**

17 Section 17414 provides in pertinent part:

18 (a) It is a violation for any person subject to this division or any
19 director, stockholder, trustee, officer, agent, or employee of any such
20 person to do any of the following:

21 (1) Knowingly or recklessly disburse or cause the disbursal of escrow
22 funds otherwise than in accordance with escrow instructions, or
23 knowingly or recklessly to direct, participate in, or aid or abet in a
24 material way, any activity which constitutes theft or fraud in connection
25 with any escrow transaction.

26 Section 17423 provides in pertinent part:

27 (a) The commissioner may, after appropriate notice and opportunity for
28 hearing, by order . . . bar from any position of employment,
management, or control any escrow agent . . . if the commissioner finds
. . . the following:

(1) That the . . . bar is in the public interest and that the person has

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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 the public.

CCR section 1738 provides in pertinent part:

(a) All money deposited in such "trust" or "escrow" account shall be withdrawn, paid out, or transferred to other accounts only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction or pursuant to order of a court of competent jurisdiction.

CCR section 1738.2 provides:

An escrow agent shall use documents or other property deposited in escrow only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction, or if not otherwise directed by written or electronically executed instructions, in accordance with sound escrow practice, or pursuant to order of a court of competent jurisdiction.

V.

**PRAYER FOR ORDER BARRING KINTNER FROM ANY EMPLOYMENT,
MANAGEMENT, OR CONTROL OF ANY ESCROW AGENT**

The Commissioner finds that, by reason of the foregoing, Darien Kintner has violated section 17414, subdivision (a)(1), and CCR sections 1738 and 1738.2, which constitute grounds to bar him from any employment, management, or control of any escrow agent under section 17423 of the Escrow Law.

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1 WHEREFORE, IT IS PRAYED under section 17423, that Darien Kintner is barred from any
2 employment, management, or control of any escrow agent.

3 Dated: November 5, 2014
4 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

6 By: _____
7 Blaine A. Noblett
8 Senior Corporations Counsel
9 Enforcement Division

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