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6 BEFORE THE DEPARTMENT OF CORPORATIONS

7 STATE OF CALIFORNIA

9	In The Matter of the Accusation of THE)	File No. 963-1818 & 963-2545
10	CALIFORNIA CORPORATIONS)	
11	COMMISSIONER,)	ORDER BARRING FRANKLIN ROXAS
12	Complainant,)	FROM ANY POSITION OF EMPLOYMENT,
13	vs.)	MANAGEMENT OR CONTROL OF ANY
14	FRANKLIN ROXAS,)	ESCROW AGENT
15	Respondent.)	
16)	
17)	

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19 The California Corporations Commissioner (“Commissioner”) finds that:

20 1. Respondent Franklin Roxas ("Roxas") was, at all times relevant in paragraphs 3 and 4
21 below, an escrow officer at Q & S Escrow, Inc. (“Q & S”), an escrow agent licensed by the
22 California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow
23 Law of the State of California (California Financial Code Section 17000 et seq.). The licensed
24 location of Q & S is 4747 Viewridge Avenue, Suite 108, San Diego, California 92123.

25 2. Roxas was, at all times relevant in paragraphs 5 and 6 below, an escrow officer at
26 Clear Escrow, Inc. (“Clear Escrow”); also an escrow agent licensed by the Commissioner pursuant
27 to the Escrow Law. The licensed location of Clear Escrow is 2605 Camino Del Rio South, Suite
28 302, San Diego, California 92108.

1 3. On January 19, 2012, the Commissioner, by and through staff, commenced a special
2 examination of Q & S to review escrow files handled by Roxas based upon information received by
3 the Department of Corporations (“Department”) that Roxas had been disbursing trust funds to
4 unauthorized persons. The special examination disclosed that Roxas had made five (5)
5 unauthorized disbursements of trust funds totaling \$16,003.39 between May 2, 2011 and August 25,
6 2011 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,
7 sections 1738 and 1738.2. Each of the unauthorized disbursements of trust funds described below
8 also caused a shortage to exist in the trust account in violation of California Code of Regulations,
9 title 10, section 1738.1.

10 4. The unauthorized disbursements and other violations noted during the special
11 examination of Q & S are described as follows:

12 A. Escrow Number 11-917-LH:

13 (i) On May 2, 2011, Q & S received a refund from Corinthian Title Company in the
14 amount of \$1,461.67 for over payment of taxes by the seller. Instead of refunding the monies to the
15 seller, Roxas, on May 2, 2011, disbursed those funds to his domestic partner, Stephen Bushue
16 (“Bushue”), via trust check number 12134.

17 (ii) On May 2, 2011, Roxas violated Financial Code section 17414(a)(2) by altering the
18 final HUD-1 to delete the entry of taxes in the amount of \$1,461.67 on page 1, line 507 and add
19 “Negotiator Fee to Stephen Bushue” on page 2, line 1306.

20 B. Escrow Number 11-932-FR:

21 (i) On August 10, 2011, Q & S received a refund from Stewart Title in the amount of
22 \$2,877.48 for over payment of taxes by the seller. Instead of refunding the monies to the seller,
23 Roxas, on August 11, 2011, disbursed those funds to Bushue via trust check number 12534.

24 C. Escrow Number 11-977-FR:

25 (i) On July 13, 2011, Roxas made two unauthorized disbursements of trust funds to
26 Bushue in the respective amounts of \$1,439.01 and \$8,295.36 via trust check numbers 12380 and
27 12387.
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1 (ii) On July 12, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a
2 final HUD-1 that misrepresented the unauthorized disbursements to be made to Bushue in the
3 respective amounts of \$8,295.36 and \$1,439.01 as property taxes and association dues.

4 D. Escrow Number 11-1019-FR:

5 (i) On August 25, 2011, Roxas made an unauthorized disbursement of trust funds to
6 Bushue in the amount of \$1,929.87 via trust check number 12548.

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8 (ii) On August 23, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing
9 a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the
10 amount of \$1,929.87 as a negotiator fee.

11 5. On January 26, 2012, the Commissioner, by and through staff, commenced a special
12 examination of Clear Escrow to review escrow files handled by Roxas based upon information
13 received by the Department that Roxas had been disbursing trust funds to unauthorized persons.
14 The special examination disclosed that Roxas had made ten (10) unauthorized disbursements of trust
15 funds totaling \$25,103.05 between December 9, 2011 and December 22, 2011 in violation of
16 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and
17 1738.2. Each of the unauthorized disbursements of trust funds described below also caused a
18 shortage to exist in the trust account in violation of California Code of Regulations, title 10, section
19 1738.1. The trust account shortage has been corrected as noted below.

20 6. The unauthorized disbursements and other violations noted during the special
21 examination of Clear Escrow are described as follows:

22 A. Escrow Number MV-10097-FR:

23 (i) On December 13, 2011, Roxas made an unauthorized disbursement of trust funds to
24 Bushue in the amount of \$500.00 via trust check number 10513. Roxas has returned these funds to
25 Clear Escrow.

26 B. Escrow Number MV-10111-FR:

27 (i) On December 10, 2011, Roxas made two unauthorized disbursements of trust funds
28 to Delvie Jouldjian (“Jouldjian”) in the amount of \$5,000.00 each via trust check numbers 10608

1 and 10609. The funds were later recovered from Jouldijian.

2 C. Escrow Number MV-10157-FR:

3 (i) On December 7, 2011, Roxas made an unauthorized disbursement of trust funds to
4 Bushue in the amount of \$1,127.18 via trust check number 10450. Roxas has returned these funds to
5 Clear Escrow.

6 (ii) On December 7, 2011, Roxas violated Financial Code section 17414(a)(2) by
7 preparing a final HUD-1 that misrepresented the unauthorized disbursement to Bushue in the amount
8 of \$1,127.18 as property taxes.

9 D. Escrow Number MV-10174-FR:

10 (i) On December 22, 2011, Roxas made an unauthorized disbursement of trust funds to
11 Bushue in the amount of \$1,476.61 via trust check number 10740. Clear Escrow was able to
12 successfully stop payment on this check.

13 (ii) On December 19, 2011, Roxas violated Financial Code section 17414(a)(2) by
14 preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in
15 the amount of \$1,476.61 as property taxes.

16 E. Escrow Number MV-10175-FR:

17 (i) On December 19, 2011, Roxas made an unauthorized disbursement of trust funds to
18 Bushue in the amount of \$5,521.77 via trust check number 10652. Clear Escrow was able to
19 successfully stop payment on this check despite the check initially clearing the bank.

20 (ii) On December 16, 2011, Roxas violated Financial Code section 17414(a)(2) by
21 preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in
22 the amount of \$5,521.77 as delinquent property taxes.

23 F. Escrow Number MV-10202-FR:

24 (i) On December 17, 2011, Roxas made two unauthorized disbursements of trust funds
25 to Bushue in the respective amounts of \$1,064.45 and \$675.00 via trust check numbers 10617 and
26

1 10618. Clear Escrow was able to successfully stop payment on these checks despite the checks
2 initially clearing the bank.

3 (ii) On December 18, 2011, Roxas violated Financial Code section 17414(a)(2) by
4 preparing a final closing statement that misrepresented the unauthorized disbursements to Bushue in
5 the amount of \$1,064.45 and \$675.00 as delinquent property taxes and real estate commissions.

6 G. Escrow Number MV-10228-FR:

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8 (i) On December 7, 2011, Roxas made an unauthorized disbursement of trust funds to
9 Bushue in the amount of \$211.72 via trust check number 10439. Roxas has returned these funds to
10 Clear Escrow.

11 (ii) On December 5, 2011, Roxas violated Financial Code section 17414(a)(2) by
12 preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in
13 the amount of \$211.72 as HOA fees.

14 H. Escrow Number MV-10362-FR:

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16 (i) On December 18, 2011, Roxas made an unauthorized disbursement of trust funds to
17 Bushue in the amount of \$4,526.32 via trust check number 10625. Clear Escrow was able to
18 successfully stop payment on this check despite the check initially clearing the bank.

19 (ii) On December 14, 2011, Roxas violated Financial Code section 17414(a)(2) by
20 preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in
21 the amount of \$4,526.32 as property taxes.

22 7. On October 23, 2012, the Commissioner issued a Notice of Intention to Issue an
23 Order Pursuant to California Financial Code Section 17423 (Bar from Employment, Management or
24 Control of Any Escrow Agent), Accusation and accompanying documents against Roxas based upon
25 the above described findings. Roxas was personally served with those documents on
26 October 29, 2012.

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

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9. 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.

THEREFORE, it is hereby ordered that Respondent Franklin Roxas is barred from any position of employment, management or control of any escrow agent. This Order is effective as of the date hereof.

Dated: November 27, 2012

JAN LYNN OWEN
California Corporations Commissioner

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division