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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: |) | ESCROW LICENSE NO.: 963-2093 |
| | |) | |
| 12 | THE COMMISSIONER OF BUSINESS |) | STATEMENT OF FACTS IN SUPPORT OF |
| 13 | OVERSIGHT, |) | ORDER TO DISCONTINUE VIOLATIONS |
| | |) | PURSUANT TO FINANCIAL CODE |
| 14 | Complainant, |) | SECTION 17602 |
| | |) | |
| 15 | v. |) | |
| | |) | |
| 16 | SELECT ESCROW, INC., |) | |
| | |) | |
| 17 | Respondent. |) | |
| | |) | |
| 19 | |) | |

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

22 1. Respondent Select Escrow, Inc. ("Select") is an escrow agent licensed by the
23 Commissioner of Business Oversight ("Commissioner") pursuant to the Escrow Law of the State of
24 California (Financial Code, § 17000 et seq.). Select has its principal place of business located at 765
25 North Main Street, #101, Corona, California 92880.

26 **Unauthorized Disbursement and Failure to Report Violations**

27 2. Under Financial Code section 17414 and California Code of Regulations, title 10,
28 section 1738, escrow funds shall not be disbursed unless authorized by the principal(s) to the escrow

1 transaction. Select disbursed escrow funds without proper authorization from a principal of the
2 escrow transaction as discussed in detail below.

3 3. Under Financial Code section 17414, subdivision (c), all licensees must immediately
4 report an abstraction or misappropriation of escrow funds in writing to the Commissioner. Select
5 failed to report their misappropriation to the Commissioner.

6 4. On or about November 17, 2014, a non-principal (“Non-Principal”), assuming the
7 identity of the principal to Escrow #C8812-SMS (“Principal”) and using a different e-mail than the
8 one used by the Principal, contacted Select to ask what time he needs to be there for closing and
9 whether his proceeds will be given via check or wire. Select asked why he would come in.

10 5. On or about November 18, 2014, the Non-Principal asked once more whether his
11 proceeds will be given via check or wire. Select informed the Non-Principal that a prior instruction
12 submitted by the Principal requested that the proceeds be disbursed by check and that he had
13 previously expressed a desire to pick up the check around 4:00pm today. Select concluded the e-mail
14 by asking whether any of this information had changed. The Non-Principal sent a reply shortly
15 thereafter stating that he would come in by 4:00pm.

16 6. On or about November 19, 2014, the Non-Principal sent an e-mail to Select in the
17 morning saying that he was having trouble depositing the check and that he wants Select to wire the
18 funds instead. The Non-Principal also mentioned that he will be out of the office all day from
19 November 18 to November 24. Select stated that he has not picked up the check yet, so his e-mail
20 did not make any sense. The Non-Principal replied that he had intended to send that e-mail to
21 another recipient and that he would at Select by 1:00 p.m. The actual Principal came to Select’s
22 office to pick up the check around 12:00 p.m.

23 7. On or about November 19, 2014, later in the afternoon, the Non-Principal sent an e-
24 mail to Select saying that he had been having issues with his account since the morning and that he
25 wants Select to put a stop payment on his check and wire the proceeds instead. The Non-Principal
26 also stated he is going into a meeting now and to e-mail him if they need anything. The Non-
27 Principal subsequently sent three more emails requesting a stop payment on the check, the last one
28 specifically requesting acknowledgement of his e-mail. Select eventually replied stating that they

1 can stop the payment of the check and that they can forward a wiring instructions form to him to fill
2 out.

3 8. On or about November 20, 2014, the Non-Principal sent an e-mail to Select stating
4 that he is waiting for the wiring instructions and to e-mail him if they need anything, as he is in a
5 business meeting all day. Select sent him the wiring instruction form and informed him that the stop
6 payment for the check had been processed. The same day, the Non-Principal filled out and signed
7 the wiring instruction form in the name of the Principal and sent the wiring instructions back to
8 Select.

9 9. On or about December 2, 2014, the Principal discovered that Select had placed a stop
10 payment on his check on November 20, 2014.

11 10. On or about December 3, 2014, Select discovered the hacking and that they had
12 disbursed the escrow funds of Escrow #C8812-SMS according to the directions of the Non-Principal
13 and not that of the actual Principal. Select was able to get a portion of the escrow proceeds back, but
14 could not retrieve all of it, causing a trust shortage in Escrow #C8812-SMS, in violation of Financial
15 Code section 17414 and California Code of Regulations, title 10, section 1738.

16 11. On or about January 7, 2015, the Principal filed a complaint with the Commissioner
17 alerting the Commissioner of the unauthorized disbursement. Until the receipt of this complaint,
18 Select had failed to report the trust shortage in Escrow #C8812-SMS to the Commissioner.

19 12. Financial Code section 17602 provides:

20 If it appears to the commissioner that any licensed escrow agent has
21 violated its articles of incorporation, or any law or rule binding upon it,
22 the commissioner shall, by written order addressed to the agent direct
23 the discontinuance of such violation. The order shall be effective
immediately, but shall not become final except in accordance with the
provisions of Section 17604.

24 13. Financial Code section 17604 provides:

25 No order issued pursuant to Section 17602 or 17603 may become final
26 except after notice to any licensed escrow agent affected thereby of the
27 intention of the commissioner to make such order final and of the reasons
28 therefore and that upon receipt of a request the matter will be set down
for hearing to commence within 15 business days after such receipt unless
the licensed agent affected consents to a later date. If no hearing is requested

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within 30 days after the mailing of such notice and none is ordered by the commissioner, the order may become final without hearing and the licensed escrow agent shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act , Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted thereunder. If upon the hearing, it appears to the commissioner that the licensed agent is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law binding upon it, the commissioner shall make the order of discontinuance final and the licensed escrow agent shall immediately discontinue the practices named in the order.

WHEREFORE, good cause showing, the Commissioner of Business Oversight is issuing an Order to Discontinue Violations and notifying Select of her intention to make the order final.

Dated: June 23, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Johnny Vuong
Senior Counsel
Enforcement Division