

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN ROONEY  
Assistant Chief Counsel  
3 UCHE L. ENENWALI (State Bar No. 235832)  
Senior Counsel  
4 Department of Business Oversight  
5 320 West 4<sup>th</sup> Street, Suite 750  
6 Los Angeles, California 90013-2344  
7 Telephone: (213) 576-7586  
Facsimile: (213) 576-7181

8  
9 Attorneys for Complainant

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

12 In the Matter of: ) ESCROW LICENSE NO.: 9630277  
13 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) ACCUSATION TO REVOKE ESCROW  
14 ) LICENSE  
15 Complainant, )  
16 v. )  
17 SOUTH BAY ESCROW CO., )  
18 Respondent. )  
19 )  
20 )

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

23 I.

24 **Introduction**

25 1. The Commissioner of Business Oversight (Commissioner) seeks to revoke the escrow  
26 agent's license of South Bay Escrow, Co. (South Bay Escrow) pursuant to Financial Code section  
27 17608 for violations of the Escrow Law.

28 ///



1 audit prepared by a Certified Public Accountant (CPA) before the Commissioner may accept the  
2 surrender.

3 9. On September 30, 2016, the Commissioner sent a letter to South Bay Escrow by  
4 certified mail, informing it that in accordance with Financial Code section 17600, it must first submit  
5 a closing audit prepared by a CPA within 105 days from the date of its application or September 30,  
6 2016 before the surrender may be accepted. South Bay Escrow did not respond to the  
7 Commissioner's September 30, 2016 letter or file a closing audit as required by law.

8 10. On December 30, 2016 the Commissioner issued a written demand (Demand Letter)  
9 requesting that South Bay Escrow respond to the September 30, 2016 letter within ten days from the  
10 date of the Demand Letter. Further, the Demand Letter notified South Bay Escrow that if it failed to  
11 respond to the Demand Letter or file its closing audit report within the ten- day deadline, the  
12 Commissioner could revoke South Bay Escrow's license. To date, the Commissioner has not  
13 received South Bay Escrow's closing audit report.

#### 14 IV.

#### 15 Applicable Law

16 11. Financial Code section 17406, subdivision (a) provides:

- 17 i. Each licensee shall submit to the commissioner, at the licensee's  
18 own expense, an audit report containing audited financial  
19 statements covering the calendar year or, if the licensee has an  
20 established fiscal year, then for that fiscal year, within 105 days  
21 after the close of each the calendar or fiscal year, as applicable. At  
that time, each licensee shall also file additional relevant  
information as the commissioner may require.

22 12. Financial Code section 17600 provides as follows:

- 23 (a) An escrow agent's license remains in effect until surrendered, revoked,  
24 or suspended.
- 25 (b) A licensee that ceases to engage in the business regulated by this  
26 division and desires to no longer be licensed shall notify the  
27 commissioner in writing and, at that time, tender the license and all  
28 other indicia of licensure to the commissioner. Within 105 days of the  
written notice to the commissioner, the licensee shall submit to the  
commissioner, at its own expense, a closing audit report as of the date  
the license is tendered to the commissioner for surrender, or for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

another period as the commissioner may specify, to be performed by an independent certified public accountant. The closing audit shall include, but not be limited to, information required by the commissioner, a bank reconciliation of the trust account, and a verified statement from the certified public accountant confirming lawful disbursement of funds. A license is not surrendered until the commissioner has reviewed and accepted the closing audit report, a determination has been made by the commissioner that acceptance of the surrender is in the public interest, and tender of the license is accepted in writing by the commissioner.

13. Financial Code section 17602.5 provides as follows:

- i. If any licensed escrow agent fails to make any reports required by law or by the commissioner within ten (10) days from the day designated for the making of the reports, or within any extension of time granted by the commissioner, . . . such failure shall constitute grounds for the suspension or revocation of the license held by such escrow agent.

14. Financial Code section 17608 provides in pertinent part:

The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:

...

- (b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

**V.**

**Conclusion**

The Commissioner finds that:

- a) South Bay Escrow violated Financial Code section 17406 by failing to submit its annual audit report to the Commissioner within 105 days after the close of its fiscal year.
- b) South Bay Escrow violated Financial Code section 17600 by failing to submit a closing audit report as of the date it tendered its license to the Commissioner for surrender.
- c) South Bay Escrow violated Financial Code section 17602.5 by failing to make reports required by law or by the Commissioner within ten days from the day designated for the making of the reports, or within any extension of time granted by the Commissioner.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

The Commissioner further finds that South Bay Escrow’s violations of Financial Code sections 17406; 17600; and 17602.5 constitute grounds for the revocation of its escrow agent's license.

WHEREFORE, IT IS PRAYED THAT:

The escrow agent's license of South Bay Escrow, Co. be revoked.

Dated: May 4, 2017  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
UCHE L. ENENWALI  
Senior Counsel  
Enforcement Division