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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

11	In the Matter of:)	ESCROW LICENSE NO.: 963-1364
12)	
12	THE COMMISSIONER OF BUSINESS)	STATEMENT OF FACTS IN SUPPORT OF
13	OVERSIGHT,)	ORDER TO DISCONTINUE VIOLATIONS
14)	PURSUANT TO FINANCIAL CODE
14	Complainant,)	SECTION 17602
15)	
15	v.)	
16)	
16	TRADEWINDS ESCROW, INC.,)	
17)	
17	Respondent.)	
18)	
19)	

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

22 1. Tradewinds Escrow, Inc. (Tradewinds) is an escrow agent licensed by the
23 Commissioner of Business Oversight pursuant to the Escrow Law (Fin. Code § 17000 et seq.).
24 Tradewinds has its principal place of business located at 23670 Hawthorne Boulevard, Suite #211,
25 Torrance, CA 90505.

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

27 2. Under Financial Code section 17414 and California Code of Regulations, title 10,
28 sections 1738 and 1738.2, escrow funds shall not be disbursed unless authorized by the principal(s)

1 to the escrow transaction. Tradewinds disbursed escrow funds without proper authorization from a
2 principal of the escrow transaction, as described more in detail below.

3 3. Under Financial Code section 17414, all licensees must immediately report an
4 abstraction or misappropriation of escrow funds in writing to the Commissioner. Tradewinds failed
5 to report the misappropriation of Tradewinds' trust funds to the Commissioner immediately.

6 4. The principal of Escrow #014588-CD (Principal) signed Instructions for Proceeds
7 (Instructions) instructing Tradewinds to disburse the Principal's sale proceeds by mailing a check to
8 the Principal's address.

9 5. On or about October 13, 2016, a non-principal (Non-Principal), assuming the identity
10 of the Principal, emailed Tradewinds to request that Tradewinds wire the sale proceeds to the Non-
11 Principal's bank account, in contrast to the Principal's signed instructions to mail sale proceeds by
12 check. The email address used by the Non-Principal was different from the actual Principal's email
13 address, which was previously provided to Tradewinds. The escrow file did not contain any
14 agreement authorizing Tradewinds to accept email escrow instructions from the Principal.

15 6. On or about October 14, 2016, the actual Principal's sale proceeds were wired to the
16 Non-Principal's bank account in accordance with the Non-Principal instructions.

17 7. On or about October 18, 2016, the Principal called Tradewinds to ask about the status
18 of the sale proceeds and Tradewinds discovered that the actual Principal's sale proceeds were wired
19 to a bank account that did not belong to the actual Principal. The same day, Tradewinds contacted
20 their attorney to discuss the matter, including calling the Department of Business Oversight and
21 filing a claim with their Error and Omissions insurance.

22 8. Despite discussing the matter with their attorney on October 18, 2016, Tradewinds
23 did not report the misappropriation to the Department until October 24, 2016.

24 9. On or about October 24, 2016, Tradewinds entered into an agreement with the actual
25 Principal whereby the actual Principal agreed to the acceptance of a promissory note for the amount
26 of sale proceeds with interest in lieu of immediate repayment.

27 10. Financial Code section 17602 provides:

28 If it appears to the commissioner that any licensed escrow agent has
violated its articles of incorporation, or any law or rule binding upon it,

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the commissioner shall, by written order addressed to the agent direct 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.

11. Financial Code section 17604 provides:

No order issued pursuant to Section 17602 or 17603 may become final except after notice to any licensed escrow agent affected thereby of the intention of the commissioner to make such order final and of the reasons 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 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 Tradewinds of her intention to make the order final.

Dated: June 20, 2017
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Johnny Vuong
Senior Counsel
Enforcement Division