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

11 In the Matter of:)	ESCROW LICENSE NO.: 963-0038
)	
12 THE COMMISSIONER OF BUSINESS)	ORDER IMPOSING PENALTIES
13 OVERSIGHT,)	PURSUANT TO FINANCIAL CODE
)	SECTION 17408
14 Complainant,)	
)	
15 v.)	
)	
16 BUILDERS DISBURSEMENTS, INC.,)	
)	
17 Respondent.)	
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)	

21 TO: BUILDERS DISBURSEMENTS, INC.
22 601 East Glenoaks Boulevard, Suite 101
23 Glendale, California 91207

24 The Complainant, the Commissioner of Business Oversight (Commissioner) of the
25 Department of Business Oversight (Department), finds that:

26 1. Builders Disbursements, Inc. (BDI) is a joint control agent licensed by the
27 Commissioner pursuant to Section 17005.1 of the Escrow Law of the State of California,
28 commencing at Fin. Code § 17000 *et seq.* (Escrow Law).

1 2. BDI’s principal place of business is located at 601 East Glenoaks Boulevard, Suite
2 101, Glendale, California 91207.

3 3. Financial Code section 17406, subdivision (a) requires all licensees under the
4 Escrow Law to file an annual audit report containing audited financial statements within 105 days
5 after the close of the calendar or the licensee’s fiscal year, as applicable.

6 4. On or around November 16, 2017, the Department notified BDI that its December
7 31, 2017 annual audit report (annual audit report) must be received by the Department no later than
8 April 16, 2018, which is 105 days after the close of the fiscal year end, and that failure to file the
9 annual audit report by the deadline would subject BDI to penalties pursuant to Financial Code
10 section 17408.

11 5. BDI failed to file its annual audit report by the deadline of April 16, 2018.

12 6. On or around April 24, 2018, the Department issued a 10 day-demand notifying BDI
13 that its annual audit report was not received and that if the Department does not receive it within 10
14 days from April 24, 2018, then pursuant to Financial Code section 17408, subdivision (b), BDI will
15 be assessed a penalty for \$100.00 per day for the first five days the annual audit report is overdue,
16 and thereafter, \$500.00 per day for each day the annual audit report is overdue until it is received as
17 required pursuant to Financial Code section 17406. BDI was further notified that failure to file the
18 annual audit report may result in suspension or revocation of its escrow agent’s license pursuant to
19 Financial Code section 17602.5.

20 7. BDI failed to file its annual audit report by the 10 day-deadline of May 4, 2018.

21 8. On or around May 7, 2018, BDI’s Chief Financial Officer verbally stated that BDI
22 would file its annual audit report the following week, on or around May 14, 2018.

23 9. Receiving no response from BDI, on or around June 12, 2018, the Department made
24 a further request to BDI for its annual audit report.

25 10. To date, BDI has not filed its annual audit report, in violation of Financial Code
26 section 17406, subdivision (a).

27 11. Financial Code section 17406, subdivision (e) requires all licensees under the
28 Escrow Law to make other special reports as the Commissioner may require.

1 12. On or around July 28, 2017, the Department demanded that BDI provide within 30
2 days its financial statements for June 30, 2017, including the general account bank statement and
3 reconciliation, to determine BDI’s compliance with Financial Code section 17210, which provides
4 that an escrow agent licensed on or after January 1, 1986 shall maintain at all times a tangible net
5 worth of \$50,000.00, including liquid assets of at least \$25,000.00 in excess of current liabilities.
6 BDI failed to respond by the deadline of on or around August 28, 2017.

7 13. On or around February 13, 2018, the Department issued a formal demand to BDI for
8 its financial statements for the periods ending on June 30, 2017, August 31, 2017, and January 31,
9 2018, within 10 days, or by no later than February 23, 2018, and that failure to provide the required
10 financial statements could result in the suspension of BDI’s joint control license.

11 14. On or around February 13, 2018, BDI responded partially to the Department’s
12 formal demand by providing its financial statements for the period ending on June 30, 2017, but
13 failing to submit its financial statements for the periods ending on August 31, 2017 and January 31,
14 2018.

15 15. On or around March 29, 2018, the Department issued a 10 day-demand for the
16 required August 31, 2017 and January 31, 2018 financial statements, notifying BDI that pursuant to
17 Financial Code section 17408, subdivision (b), it will be assessed a penalty of \$100.00 per day for
18 the first five days the reports are overdue, and thereafter, \$500.00 per day for each day the reports
19 are overdue.

20 16. On or around April 11, 2018, the Department extended the deadline for BDI to
21 provide its financial statements, including the general account bank statement and reconciliation,
22 for the periods ending on August 31, 2017 and January 31, 2018, to no later than April 25, 2018.

23 17. To date, BDI has failed to submit its financial statements, including the general
24 account bank statement and reconciliation, for the periods ending on August 31, 2017 and January
25 31, 2018, in violation of Financial Code section 17406, subdivision (e).

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18. Financial Code section 17408 provides, in relevant part:

(b) The commissioner may impose, by order, a penalty on any person who fails, within the time specified in any written demand of the commissioner, (1) to make and file with the commissioner any report required by law or requested by the commissioner, or (2) to furnish any material information required by the commissioner to be included in the report. The amount of the penalty may not exceed one hundred dollars (\$100) for each day for the first five days the report or information is overdue, and thereafter may not exceed five hundred dollars (\$500) for each day the report or information is overdue.

(c) If, after an order has been made under subdivision (b), a request for hearing is filed in writing within 30 days of the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with 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 under that chapter.

(d) If the person fails to file a written request for a hearing within 30 days of the date of service of the order, the order imposing the penalty shall be deemed a final order of the commissioner, and the penalty shall be paid within five business days.

(e) If a hearing is requested, the penalty shall be paid within five business days after the effective date of any decision in the case ordering payment to be made.

NOW THEREFORE, the Commissioner, having found that Builders Disbursements, Inc. violated Financial Code section 17406, subdivisions (a) and (e) of the Escrow Law, Builders Disbursements, Inc. is hereby ordered, pursuant to Financial Code section 17408, to pay to the Commissioner as follows: (1) for the 2017 annual audit report demanded on or about April 24, 2018, a penalty accruing until the date of submission exceeding 221 days, of at least \$111,000.00; and (2) for BDI's financial statements, including the general account bank statement and reconciliation, for the periods ending on August 31, 2017 and January 31, 2018, demanded by the extended deadline of on or about April 25, 2018, a penalty accruing until the date of submission

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exceeding 220 days, of at least \$110,500.00, for a **total sum of \$221,500.00**, plus an additional \$500.00 a day for each day after the date of this Order that each of the foregoing is not filed.

Dated: February 22, 2019
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division