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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.: 963-2518
12	THE COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	STATEMENT OF FACTS IN SUPPORT OF
14	Complainant,)	ORDER TO DISCONTINUE VIOLATIONS
15	v.)	PURSUANT TO FINANCIAL CODE
16	LENDERS CHOICE ESCROW, INC.,)	SECTION 17602 AND NOTICE OF INTENT
17	Respondent.)	TO MAKE ORDER FINAL
18)	
19)	

20
21 The Commissioner of Business Oversight (Commissioner) is informed and believes and
22 upon such information and belief, alleges and charges as follows:

23 **I.**

24 **Introduction**

25 1. The Commissioner seeks to Order Lenders Choice Escrow, Inc. (Lenders Choice) to
26 discontinue violations of Financial Code section 17414 and California Code of Regulations, title 10,
27 sections 1738, 1738.1, and 1738.2, pursuant to Financial Code section 17602.

28 2. Lenders Choice is an escrow agent licensed by the Commissioner pursuant to the

1 Escrow Law (Fin. Code, § 17000 et seq.). Lenders Choice has its principal place of business at 1
2 City Boulevard West, Suite 1610, Orange, California 92868.

3 **II.**

4 **Statement of Facts**

5 3. Under Financial Code section 17414 and California Code of Regulations (CCR), title
6 10, sections 1738 and 1738.2, escrow funds shall not be disbursed unless authorized by the
7 principal(s) to the escrow transaction. Lenders Choice disbursed escrow funds without proper
8 authorization from a principal of the escrow transaction, as described in detail below.

9 4. Under title 10 CCR section 1738.1, debit balances are prohibited in trust accounts.
10 Lenders Choice allowed a debit balance in the amount of \$23,451.21 to exist in its trust account
11 from December 20, 2018 until December 31, 2018.

12 5. Under Financial Code section 17414, all licensees must immediately report an
13 abstraction or misappropriation of escrow funds in writing to the Commissioner. Lenders Choice
14 failed to immediately report the misappropriation of Lenders Choice’s trust funds to the
15 Commissioner that occurred on December 20, 2018.

16 6. On December 7, 2018, the principal of Escrow #300902 signed Loan Escrow
17 Instructions, and Instructions and Authorization for Disbursement of Borrower’s Net Proceeds,
18 authorizing Lenders Choice to wire the proceeds to the principal’s bank account as stated on the
19 form.

20 7. Before the close of escrow, on or about December 17, 2018, an imposter, non-
21 principal, assuming the identity of the actual principal, emailed Lenders Choice requesting that the
22 funds be wired to a bank account that was different from the account on the Instructions and
23 Authorization for Disbursement of Borrower’s Net Proceeds form. While pretending to be the
24 actual principal, the imposter, non-principal misspelled the actual principal’s name, and also used a
25 different email account.

26 8. On or about December 20, 2018, Lenders Choice submitted wire instructions to its
27 bank, using the account information provided by the imposter non-principal.

28 9. On or about December 27, 2018, the actual principal telephoned Lenders Choice,

1 stating that the actual principal had not requested that the wire be transferred to a different account,
2 and confirming that the actual principal had not received any funds.

3 10. As a result of Lenders Choice’s unauthorized disbursement of the actual principal’s
4 escrow funds to the non-principal, a debit balance of \$23,451.21 was created in Escrow #300902.
5 The debit balance in Lenders Choice trust account existed from December 20, 2018 until December
6 31, 2018, when Lenders Choice fully replaced the debit balance.

7 11. On or about January 16, 2019, Lenders Choice reported the trust shortage that it had
8 discovered on December 27, 2018, to the Commissioner.

9 **III.**

10 **Applicable Law**

11 12. Financial Code section 17602 provides:

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

18 13. Financial Code section 17604 provides:

19 No order issued pursuant to Sections 17602 or 17603 may become final
20 except after notice to any licensed escrow agent affected thereby of the
21 intention of the commissioner to make such order final and of the reasons
22 therefor and that upon receipt of a request the matter will be set down for
23 hearing to commence within 15 business days after such receipt unless
24 the licensed agent affected consents to a later date. If no hearing is
25 requested within 30 days after the mailing of such notice and none is
26 ordered by the commissioner, the order may become final without
27 hearing and the licensed escrow agent shall immediately discontinue the
28 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 of 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 of this state, or any rule binding upon it, the
commissioner shall make the order of discontinuance final and the

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licensed escrow agent shall immediately discontinue the practices named in the order.

NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, THE Commissioner of Business Oversight is issuing an Order to Discontinue Violations under the provisions of Financial Code section 17602 and 17604, and notifying Lenders Choice Escrow, Inc. of her intention to make the order final.

Dated: March 11, 2019
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Danielle A. Stoumbos
Senior Counsel
Enforcement Division