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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.: 963-1459
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	GLEN OAKS 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 Glen Oaks Escrow, Inc. (Glen Oaks) to
26 discontinue violating Financial Code section 17414, subdivisions (a)(1), (a)(2) and (c), and
27 California Code of Regulations, title 10, sections 1738, 1738.2, and 1741.3, pursuant to Financial
28 Code section 17602.

Type of Charge	Borrower’s final closing statement	Title disbursement summary	Inflated amount
Title-recording process service fee	75.00	25.00	50.00
Title-tax service fee	75.00	Not a true charge	75.00
Title-sub escrow fee	95.00	45.00	50.00
Title-wire fee	75.00	25.00	50.00
Title-endorsement fee	150.00	25.00	125.00
Total			\$350.00

On January 31, 2018, Hardwick issued a \$200.00 check from the trust account to Chris Nhat (who was not a party to the escrow transaction) via check number 876935, and a \$150.00 check to herself via check number 877000.

Hardwick made these two unauthorized disbursements of trust funds totaling \$350.00 after unlawfully inflating the borrower’s costs by \$350.00, and failed to disclose this disbursement in the final account statement, in violation of Financial Code section 17414, subdivisions (a)(1) and (2) and California Code of Regulations (CCR), title 10, sections 1738, 1738.2, and 1741.3. Glen Oaks subsequently transferred \$350.00 from its general account to the trust account to refund the borrower and correct the trust shortage.

ii. Escrow File Number 139217-KJ

Hardwick was the escrow officer for escrow file number 139217-KJ. The examiner reviewed the escrow instructions, escrow ledger, checks written from the trust account, grant deed, deed of trust, notary invoice(s), estimated closing statement, title disbursement summary, and final account statement, as well as other documents in the file, which revealed that Hardwick inflated the following charges without the principal’s authorization:

Type of Charge	Borrower’s final closing statement	Title disbursement summary	Inflated amount
Title-tax service fee	62.78	Not a true charge	62.78
Title-endorsement fee	75.00	25.00	50.00
Wells Fargo Bank – interest to pay off loan	378.29	408.07	-29.78

1	Wells Fargo Bank – recording fee	160.00	93.00	67.00
2	Glen Oaks Escrow – reimbursement for courier/overnight	175.00	75.00	100.00
3				
4	Total			\$250.00

5 On February 2, 2018, Hardwick issued a \$250.00 check from the trust fund to Kevin Ho
6 (who was not a party to the escrow transaction) via trust check number 877105.

7 Hardwick made this unauthorized disbursement of trust funds after unlawfully inflating the
8 borrower’s costs, and failed to disclose this disbursement in the final account statement, in violation
9 of Financial Code section 17414, subdivision (a)(1) and (a)(2), CCR, title 10, sections 1738, 1738.2,
10 and 1741.3. Glen Oaks subsequently transferred \$250.00 from its general account to the trust
11 account to refund the borrower and correct the trust fund shortage.

12 **iii. Escrow File Number 138896-KJ**

13 Hardwick was the escrow officer for escrow file number 138896-KJ. The examiner reviewed
14 the escrow instructions, escrow ledger, checks written from the trust account, grant deed, deed of
15 trust, notary invoice(s), estimated closing statement, title disbursement summary, and final account
16 statement, as well as other documents in the file, which revealed that on December 20, 2017,
17 Hardwick issued a \$200.00 check to Sandra Woodson (who was not a party to the escrow
18 transaction) via trust fund check number 872928. This payment to Sandra Woodson was not
19 authorized by the principals (in the written escrow instructions or otherwise). The exam also
20 revealed that Hardwick issued a \$300.00 check to C.S. for notary services via trust fund check
21 number 872929. The closing instructions authorized a \$200.00 notary fee.

22 Hardwick made these unauthorized disbursements of trust funds in violation of Financial
23 Code section 17414, subdivision (a)(1) and CCR sections 1738, and 1738.2. Glen Oaks
24 subsequently transferred \$300.00 from its general account to the trust account to refund the borrower
25 and correct the trust fund shortage.

26 8. The Commissioner’s special examination revealed 14 additional unauthorized trust
27 disbursements that were not detected during the Glen Oak’s self-audit. Glen Oaks replaced the
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1 additional trust shortages from its operating funds on or around September 24, 2018, and
2 subsequently refunded the principals to the transactions.

3 Two examples of violations detected by the Commissioner’s staff that were not reported in
4 Glen Oak’s self-audit are as follows:

5 **i. Escrow File Number 135491-KJ**

6 Hardwick was the escrow officer for escrow file number 135491-KJ. The examiner reviewed
7 the escrow instructions, escrow ledger, checks written from the trust account, grant deed, deed of
8 trust, notary invoice(s), estimated closing statement, title disbursement summary, and final account
9 statement, as well as other documents in the file, which revealed that the borrower authorized
10 \$200.00 in notary expenses. On July 31, 2017, Hardwick issued a \$200.00 check to K.F., the notary,
11 via trust fund check number 854842, and a \$100.00 check to K.F. via trust fund check number
12 854843. On July 31, 2018, Harwick issued a \$50.00 check to herself via trust fund check number
13 858844. \$150.00 of these payments were not authorized by, or properly disclosed to the principals
14 in the transaction (in the written escrow instructions or otherwise) in violation of Financial Code
15 section 17414, subdivisions (a)(1) and (a)(2) and CCR sections 1738, 1738.2, and 1741.3. On or
16 around September 24, 2018, Glen Oaks subsequently transferred \$150.00 from its general account to
17 the trust account to refund the borrower and correct the trust fund shortage.

18 **ii. Escrow File Number 137288-KJ**

19 Hardwick was the escrow officer for escrow file number 137288-KJ. The examiner reviewed
20 the escrow instructions, escrow ledger, checks written from the trust account, grant deed, deed of
21 trust, notary invoice(s), estimated closing statement, title disbursement summary, and final account
22 statement, as well as other documents in the file, which revealed that the borrower authorized
23 \$200.00 in notary fees.

24 On December 7, 2017, Hardwick issued a \$250.00 check from the trust fund to L.F., the
25 notary, via check number 871308, and also issued a \$50.00 check from the trust fund to herself for
26 notary services via trust check number 872094. The borrowers had only authorized \$200.00 in
27 notary services. The notary charges are disclosed on the closing statement, but the statement does
28 not contain the borrower’s signature. Therefore, an extra \$100.00 in notary fees was unauthorized.

1 Hardwick made these unauthorized disbursement of trust funds in violation of Financial Code
2 section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. Glen Oaks subsequently
3 transferred \$100.00 from its general account to the trust account to refund the borrower and correct
4 the trust fund shortages.

5 9. Under Financial Code section 17414, subdivision (c), all licensees must immediately
6 report an abstraction or misappropriation of escrow funds in writing to the Commissioner. Glen
7 Oaks failed to immediately report the abstractions and misappropriations to the Commissioner.

8 **B. The Department previously barred a Glen Oaks Escrow Officer for**
9 **Unauthorized Trust Disbursements in 2010**

10 10. On February 3, 2010, the Commissioner issued an accusation against Mary Baviile.
11 The Commissioner alleged that Baviile, while an escrow officer at Glen Oak's Glendale office, had
12 over-drafted escrow accounts and/or made unauthorized disbursements of trust funds to herself and
13 to cover the over-drafts in the amount of \$233,172.60 in violation of 17414, subdivision (a)(1) and
14 California Code of Regulations, title 10, sections 1738, 1738.1, and 1738.2. The Commissioner
15 found that Baviile returned at least \$81,290.29 of the trust account shortage and Glen Oaks cured
16 the remainder. The Commissioner entered a final Order Barring Mary Baviile from any position of
17 employment, management, or control of any escrow agent on November 10, 2011.

18 **III.**

19 **Applicable Law**

20 **Underlying Violations**

21 11. Financial Code section 17414 states, in relevant part:

22 (a) It is a violation for any person subject to this division or any director,
23 stockholder, trustee, officer, agent, or employee of any such person to do
24 any of the following:

25 (1) Knowingly or recklessly disburse or cause the disbursal of escrow
26 funds otherwise than in accordance with escrow instructions, or
27 knowingly or recklessly to direct, participate in, or aid or abet in a
28 material way, any activity which constitutes theft or fraud in connection
with any escrow transaction.

(2) Knowingly or recklessly make or cause to be made any misstatement
or omission to state a material fact, orally or in writing, in escrow books,
accounts, files, reports, exhibits, statements, or any other document
pertaining to an escrow or escrow affairs.

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(c) Any person subject to this division who knows of a person's involvement in an abstraction or misappropriation of money, funds, trust obligations, or property deposited with a licensed escrow agent shall immediately report the abstraction or misappropriation in writing to the commissioner and to Fidelity Corporation.

12. California Code of Regulations, title 10, section 1738 states, in relevant part:

(a) All money deposited in such “trust” or “escrow” account shall be withdrawn, paid out, or transferred to other accounts only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction or pursuant to order of a court of competent jurisdiction.

13. California Code of Regulations, title 10, section 1738.2 states:

An escrow agent shall use documents or other property deposited in escrow only in accordance with the written escrow instructions of the principals to the escrow transaction or the escrow instructions transmitted electronically over the Internet executed by the principals to the escrow transaction, or if not otherwise directed by written or electronically executed instructions, in accordance with sound escrow practice, or pursuant to order of a court of competent jurisdiction.

14. California Code of Regulations, title 10, section 1741.3 states, in relevant part:

Upon completion of an escrow transaction an escrow agent shall render to each principal to the escrow transaction a statement of his account in writing. Such statement shall specify all receipts and disbursements of escrow funds for his account. Charges made by the escrow agent for his services, and all disbursements by the escrow agent to a broker or salesman in connection with an escrow transaction shall be clearly designated as such and shall be shown separately from disbursements of the escrow agent. Payments outside of escrow, if shown in the statement, shall be set forth separately from payments by or to the escrow agent.

Basis for the Order

15. Financial Code section 17602 provides:

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

1 the discontinuance of such violation. The order shall be effective
2 immediately but shall not become final except in accordance with the
3 provisions of Section 17604.

4 16. Financial Code section 17604 provides:

5 No order issued pursuant to Sections 17602 or 17603 may become final
6 except after notice to any licensed escrow agent affected thereby of the
7 intention of the commissioner to make such order final and of the reasons
8 therefor and that upon receipt of a request the matter will be set down for
9 hearing to commence within 15 business days after such receipt unless
10 the licensed agent affected consents to a later date. If no hearing is
11 requested within 30 days after the mailing of such notice and none is
12 ordered by the commissioner, the order may become final without
13 hearing and the licensed escrow agent shall immediately discontinue the
14 practices named in the order. If a hearing is requested or ordered, it shall
15 be held in accordance with the provisions of the Administrative
16 Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of
17 Division 3 of Title 2 of the Government Code, and the commissioner
18 shall have all of the powers granted thereunder. If upon the hearing, it
19 appears to the commissioner that the licensed agent is conducting
20 business in an unsafe and injurious manner or is violating its articles of
21 incorporation or any law of this state, or any rule binding upon it, the
22 commissioner shall make the order of discontinuance final and the
23 licensed escrow agent shall immediately discontinue the practices named
24 in the order.

25 By reason of the foregoing, Glen Oaks Escrow, Inc. has knowingly or recklessly disbursed
26 or caused the disbursement of escrow funds otherwise than in accordance with escrow instructions in
27 violation of Financial Code section 17414, subdivision (a), improperly paid out escrow funds in
28 violation of California Code of Regulations, title 10, section 1738, failed to use property deposited
in escrow in accordance with written escrow instructions in violation of CCR, title 10, section
1738.2, failed to immediately report an abstraction or misappropriation of escrow funds to the
Commissioner in violation of Financial Code section 17414, subdivision (c), knowingly or
recklessly made or caused to be made misstatements or omissions of material facts in escrow books,
accounts, files, reports, exhibits, statements, or any other document pertaining to escrow in
violation of Financial Code section 17414, subdivision (a)(2), and provided principals to the escrow
transaction a statement of his or her account in writing that did not accurately specify all receipts
and disbursements of escrow funds for his or her account in violation of CCR, title 10, section

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1741.3.

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 Glen Oaks Escrow, Inc. of his intention to make the order final.

Dated: June 18, 2019
Los Angeles, CA

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
Danielle A. Stoumbos
Senior Counsel
Enforcement Division