

STATE OF CALIFORNIA
DEPARTMENT OF BUSINESS OVERSIGHT

TEXT OF PROPOSED CHANGES UNDER THE
ESCROW LAW

(Additions shown by underline and deletions shown by strikethrough)

1. Section 1741.5 is amended to read:

§ 1741.5. Preparation of the Independent Annual Audit Report.

~~(a) Set forth below are the instructions for preparing the Independent Annual Audit Report required by Section 17406 of the Escrow Law.~~

~~STATE OF CALIFORNIA~~

~~DEPARTMENT~~

~~INSTRUCTIONS FOR INDEPENDENT AUDIT PURSUANT TO~~

~~THE CALIFORNIA ESCROW LAW~~

~~(1) The Independent Annual Audit Report shall be prepared in accordance with the provisions of Section 17406 of the Escrow Law, and as provided in the paragraphs of this subsection. For the purpose of determining independence, the regulations of the California State Board of Accountancy (Chapter 1, Sections 1 through 99.1, Title 16, California Code of Regulations) shall apply.~~

~~(2) The following items shall be considered in preparation of the report and in examining the financial statements included in the annual report:~~

~~(A) If the licensee is engaged in other businesses, in addition to the escrow business, the financial statements of the licensee shall include the assets and liabilities employed in such other businesses and the results of the operations thereof.~~

~~(B) The income statement shall state, separately from other salaries, the amount of salaries and bonuses paid to officers.~~

~~(C) If the liabilities include long term notes or mortgages, the amount of monthly payments, name of payee, due date, and other terms and conditions, including any subordination agreement which may exist with respect thereto in the financial statements or a footnote thereto, shall be stated.~~

~~(D) Quoted market values, if available, shall be stated parenthetically on the balance sheet or in a supporting schedule for items as marketable securities, including obligations of the United States Government, bonds of state and municipal governmental units, etc. A schedule of all securities shall be included in the annual report.~~

~~(E) The report shall contain a statement as to whether or not the licensee met the liquid asset and tangible net worth requirement of Section 17210 of the Financial Code on the balance sheet date. The report shall include:~~

~~(i) A schedule showing the computation of both the licensee's liquidity and tangible net worth for measuring compliance with Section 17210 of the Financial Code.~~

~~(ii) An itemized schedule listing each item included in the computations.~~

~~(iii) If marketable investments are included as liquid assets, the following information must be shown: company name; market value at balance sheet date; cost; the name of the exchange it is listed on; and the stock symbol.~~

~~(iv) If fees receivable are to be considered a liquid asset, a copy of the fee ledger at the balance sheet date must be included with the report.~~

~~(F) The report shall include copies of the trust bank account reconciliations for each location as of the balance sheet date, including all interest bearing and dormant accounts. The report shall contain an outstanding checklist which includes check and~~

~~escrow numbers, dates and amounts for each check and an explanation for all adjustments and reconciling items including the date of adjustment. This explanation shall include an affirmative statement if any reconciling items were not adjusted as of the report date and whether or not the adjustments cause debit balances (shortages). The outstanding checklists submitted with the audit report shall be maintained in the confidential section of the Department of Corporations' records.~~

~~(G) The report shall include an escrow trial balance as at the reconciliation date.~~

~~(H) The report shall disclose if the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions specified in subdivision (c) of Section 17312 of the Financial Code and if the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions not specified therein, or both. If applicable, the report shall include:~~

~~(i) A trial balance for the types of transactions specified in subdivision (c) of Section 17312 of the Financial Code and a separate trial balance for the types of transactions not specified therein. The trial balances submitted with the audit report shall be maintained in the confidential section of the Department of Corporations' records.~~

~~(ii) A statement whether or not escrow books and escrow trust accounts are maintained for those transactions specified in subdivision (c) of Section 17312 of the Financial Code separate from those transactions not specified therein.~~

~~(iii) If the escrow agent is engaged in the business of receiving escrows for deposit or delivery of the types of transactions not specified in subdivision (c) of Section 17312 of the Financial Code, a statement shall be made whether or not the licensee has fidelity bond coverage as required by Section 1723 of these rules.~~

~~(iv) If the escrow agent is engaged in the business of receiving escrows for deposit or delivery of the types of transactions specified in subdivision (c) of Section 17312 of the Financial Code, a statement shall be made whether or not the licensee is a member of Escrow Agents' Fidelity Corporation as required by Section 17312 of the Financial Code.~~

~~(3) The report shall include a statement indicating:~~

~~(A) That the individual escrow liability accounts and the controlling account have been reconciled to the escrow trust account as at the balance sheet date. If debit balances exist in the escrow liability, a full explanation of the nature and cause of the debit balances must be included in the auditor's comments along with a full explanation of the resolution of the item. If the debit balance has not been resolved as of the date of the auditor's report, then the auditor shall include a positive statement stating that the debit balance has not been resolved as of the auditor's report date. If no debit balances were in existence at the balance sheet date, a positive statement of this fact shall be made; and~~

~~(B) That the escrow funds were independently confirmed in writing by the accountant directly with the depositories or other holders of escrow assets.~~

~~(4)(A) The schedule of the escrow liability as at the end of each month during the calendar or fiscal year as reflected in the Escrow Control Account must be included in the report.~~

~~(B) If the audit is commenced on a date other than the calendar or fiscal year-end, the accountant shall request cut-off bank statements on all bank accounts covering the period from the balance sheet date to the date the audit is commenced. The bank accounts shall be reconciled to adjusted book balances as at the cut-off date, with particular attention given to the propriety and disposition of reconciling items appearing~~

~~in the bank reconciliations at the balance sheet date. The report shall include and show the same information as at the cut-off date as is required by paragraph (4) of this subsection.~~

~~(5) The opinion or report of the independent accountant shall include a statement to the effect that the accountant has examined the financial statements with respect to the provisions of Part 3, Title 10, of the Code of Civil Procedure, and the results of such examination.~~

~~(6) The accountant shall use such additional auditing procedures and standards including extension of the minimum escrow liability confirmation required above that is considered necessary in verifying the escrow funds and the escrow liability. The escrow liability shall include all escrow funds deposited into interest-bearing accounts pursuant to Section 1737(b). The comments shall include details of the nature and extent of all additional auditing procedures used in this verification.~~

~~(7) The following additional audit procedures shall be performed and the results shall be disclosed in the report:~~

~~(A) Verify the authorization and documentation of disbursements from a selective number of escrows.~~

~~(B) Select a representative sampling of escrows closed within 60 days prior to the commencement of the audit and perform the following audit procedures:~~

~~(i) Review escrow instructions, correspondence and documents in the escrow files for authorization disbursements.~~

~~(ii) Review checks for disbursements out of escrow.~~

~~(C) Review the schedule of escrow liability as of the last audit for dormant files and outstanding checks and perform the following audit procedures:~~

~~(i) Verify that funds in dormant files that no longer are on the schedule of escrow liability were properly disbursed according to signed instructions or according to the instructions of a court of competent jurisdiction, were interpleaded to a court of competent jurisdiction, or were escheated to the State of California.~~

~~(ii) Verify that the oldest dormant outstanding checks that no longer appear on the outstanding checklist were paid, were properly canceled back into the escrow fund, were properly canceled and re-issued to the original payee, were properly canceled and re-issued to a new payee according to instructions, or were escheated to the State of California. The selection of the checks shall include those checks that were older than six months at the last audit and no longer appear on the current outstanding checklist. The procedures shall include the review of check endorsements.~~

~~(8) When a licensee has branches, a statement shall be made by the accountant that the examination included auditing of the branches, and the address of each branch so examined shall be listed.~~

~~(9) If in the opinion of the independent public accountant a departure from the requirements set forth in this section is justified, upon request, the Commissioner may grant a variance upon a proper showing of suitable alternative procedures.~~

~~(b) This section became operative March 31, 2002.~~

~~Note: Authority cited: Section 17400, Financial Code. Reference: Section 17406, Financial Code.~~

(a)(1) For purposes of this rule, the following definitions apply.

(A) "Escrow liability" includes, but is not limited to, all escrow funds deposited into interest-bearing accounts pursuant to section 1737(b) of these rules.

(B) “Certified public accountant” and “accountant” mean a certified public accountant that is independent of the licensee in accordance with California Code of Regulations, title 16, section 65.

(C) “Annual audit report” cumulatively consists of the results of the audit of the licensee’s financial statements and supplementary information, the report of findings of the agreed-upon procedures engagement, and the additional documentation required by subsection (e) of this rule.

(2) A licensee must engage the same accountant to prepare an annual audit report in accordance with Financial Code section 17406 and this rule.

(A) A licensee must engage the accountant to audit the licensee’s financial statements and supplementary information and to provide to the Commissioner the audited financial statements and supplementary information indicating whether the financial statements and supplementary information of the licensee as set forth in subsection (b) of this rule are fairly stated and prepared in accordance with generally accepted accounting principles and this rule. The accountant must also submit a copy of his or her “Report on Governance” prepared by the accountant for the licensee’s board of directors as a confidential attachment to the supplemental information.

(B) A licensee must enter into an attest engagement with yhe accountant to perform the agreed-upon procedures set forth in subsections (c) and (d) of this rule and to prepare a report of findings.

(3) The accountant must submit the annual audit report directly to the Commissioner within 105 days after the close of the calendar or fiscal year.

(b) The licensee’s financial statements and supplementary information must include the following information, presented as described in this subsection.

(1) The balance sheet must present the net assets of the reconciled trust balance and the trust balance liabilities at the bottom of the balance sheet, apart from the section of the balance sheet that reflects the assets and liabilities of the licensee, with disclosures in the notes of the financial statements that describe the nature of the trust balance.

(2) If the licensee is engaged in other businesses in addition to the escrow business, the financial statements must include the assets and liabilities employed in those other businesses and the results of the those operations.

(3) The income statement must state, separately from other compensation, the amount of compensation paid to officers. For purposes of the paragraph, "officer" includes a natural person who is an officer, director, or shareholder of a licensee.

(4) If the liabilities include long term notes or mortgages, the financial statements (or a footnote thereto) must include the amount of monthly payments, name of payee, due date, and other terms and conditions of the long term notes or mortgages, including any subordination agreement which may exist.

(5) The financial statements must include a schedule of all securities. The balance sheet must state, parenthetically or in a supporting schedule, quoted market values, if available, for investments such as marketable securities, including obligations of the United States, bonds of state and municipal governmental units, and similar investments. For all marketable investments that are included as liquid assets, the schedule must include the name of the investment; market value at balance sheet date; cost; name of the exchange the investment is listed on; and stock symbol.

(6) The financial statements and supplementary information must include the following:

(A) A schedule showing the computation of both the licensee's liquidity and tangible net worth for measuring compliance with Financial Code section 17210.

(B) An itemized schedule listing each item included in the computations.

(C) A statement as to whether or not the licensee met the liquid asset and tangible net worth requirement of Financial Code section 17210 on the balance sheet date.

(c) The agreed-upon procedures engagement must include the following audit procedures and the audit procedures in subsection (d) that cumulatively form the basis of the report of findings. The procedures must include every branch location of a licensee and all related records. The report of findings must include a representation that the procedures required by this rule were performed on the records of all of the branches and the results of each procedure.

(1) The accountant must examine the escrow liability for debit balances. A debit balance, or an overdraft, means the condition caused by disbursements or adjustments, exceeding deposits in any one escrow ledger or in the overall escrow trial balance. If the accountant finds that any debit balance exists in the escrow liability, the report of findings must include a full explanation of the nature and cause of each debit balance and a full explanation of the resolution of the items causing the debit balance. If any debit balance has not been corrected as of the date of the accountant's report, the accountant must indicate in the report that the debit balance has not been resolved. If after examining the escrow liability the accountant does not identify any debit balances at the balance sheet date, the accountant must indicate in the report of findings that that the accountant examined the escrow liability for debit balances and did not uncover any debit balances.

(2) If the audit is commenced on a date other than the calendar or fiscal year-end, the accountant must request cut-off bank statements on all bank accounts covering the period from the balance sheet date to the date the audit is commenced. The bank accounts must be reconciled to adjusted book balances as of the cut-off date, with heightened attention given to the propriety and disposition of reconciling items appearing in the trust account reconciliations at the balance sheet date. The accountant must examine the trust account reconciliations for inaccuracies or evidence of missing funds, and indicate in the report of findings whether the accountant uncovered any inaccuracies or evidence of missing funds in the examination of the trust account reconciliations.

(3) The accountant must examine the trust accounting records, including the outstanding checks list and escrow trial balance, for evidence that the licensee is timely escheating dormant escrow funds, in accordance with Code of Civil Procedure section 1300 et seq. The report of findings must include a representation that the accountant has examined the licensee's records for evidence that the licensee is timely escheating funds, and must include a description of the findings from the examination of the records.

(4) The accountant must verify the authorization and documentation of disbursements from a selective number of escrows by performing the following audit procedures on a representative sampling of escrows closed within the last 12 months prior to the commencement of the audit.

(A) The accountant must examine the escrow instructions, correspondence and documents in the escrow files to confirm that all disbursements are authorized.

(B) The accountant must examine checks for written authorization supporting the disbursement out of escrow. The report of findings must include a representation that

accountant examined the authorization and documentation of disbursements from a selective number of escrows, describe the escrows sampled, and provide the accountant's findings regarding whether documentation supports that the disbursements were authorized.

(5) The accountant must obtain the trust account trial balances and outstanding check listings as of the last audit for dormant files and outstanding checks and perform the following audit procedures.

(A) The accountant must verify that funds in dormant files that no longer are on the schedule of escrow liability (1) were properly disbursed according to signed instructions or according to the instructions of a court of competent jurisdiction, (2) were interpleaded to a court of competent jurisdiction, or (3) were escheated to the state. The selection of dormant files must include all those files that were older than six months at the last audit and no longer appear on the current schedule of escrow liability.

(B) The accountant must verify that the oldest dormant outstanding checks no longer appearing on the outstanding checklist (1) were paid, (2) were properly canceled back into the escrow fund, (3) were properly canceled and re-issued to the original payee, (4) were properly canceled and re-issued to a new payee according to instructions, or (5) were escheated to the state. The selection of the checks must include all those checks that were older than six months at the last audit no longer appearing on the current outstanding checklist. The procedures must include an examination of check endorsements.

(C) In the report of findings, the accountant must confirm that the examination of dormant files and dormant funds was performed, and describe the results of the examination.

(6) The accountant must examine the records of the licensee to determine whether the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions specified in subdivision (c) of Financial Code section 17312 and if the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions not specified therein, or both.

(A) The accountant must describe the types of business activities of the licensee in the report of findings.

(B) The accountant must indicate in the report of findings whether or not escrow books and escrow trust accounts for those transactions specified in subdivision (c) of Financial Code section 17312 are maintained separate from those transactions not specified therein.

(C) If the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions not specified in subdivision (c) of Financial Code section 17312, the accountant must indicate in the report of findings whether or not the licensee has fidelity bond coverage as required by section 1723 of these rules. The accountant must indicate in the report of findings whether the fidelity bond coverage is sufficient to cover the escrow liability at the end of each month of the audit year.

(D) If the licensee is engaged in the business of receiving escrows for deposit or delivery of the types of transactions specified in subdivision (c) of Financial Code section 17312, the accountant must verify whether or not the licensee is a member of Escrow Agents' Fidelity Corporation and indicate the licensee's membership status in the report of findings.

(7) The accountant must examine the individual escrow liability accounts and the controlling account to confirm that they have been reconciled to the escrow trust

account as at the balance sheet date, and indicate in the report of findings whether the licensee had performed the trust account reconciliation.

(8) The accountant must obtain or prepare a schedule of month-end trust account liabilities and describe in the report of findings whether the supporting documentation supports the schedule.

(d) The accountant must examine the trust account reconciliation and indicate in the report of findings whether the reconciliation is accurate and in balance. The accountant must perform the following additional procedures and include in the report of findings the results of each procedure.

(1) Verify that the fiscal year end beginning escrow liability total on the trust account reconciliation agrees with the month-end total on the escrow liability report, trial balance, and manual control of the prior month. Verify that the ending escrow liability total agrees with the month-end total on the same reports for the current month.

(2) Verify that the month-end total of receipts and receipt adjustments issued, checks and check adjustments issued, and incoming and outgoing wires and wire adjustments issued as shown on the trust account reconciliation agree with the respective totals on the month-end receipts and adjustments register, checks and adjustments register, and incoming and outgoing wires and adjustments register.

(3) If the balance on the escrow liability report and manual control, including adjustments, are not reconciled to the trust bank balance as required by section 1732.2 of these rules, indicate so in the statement of findings and provide an explanation and the proper resolution of this matter.

(4) Foot the total amount on the escrow trial balance to ensure that the stated amount is accurate. Examine the escrow ledgers and escrow trial balance report for debit balances.

(5) State in the report of findings whether any debit balances existed at the fiscal year-end date. If debit balances existed in the escrow liability, explain the cause and resolution of each debit balance.

(A) A licensee must correct any debit balance immediately upon discovery and provide the accountant with proof of correction.

(B) If the licensee fails to correct a debit balance by the date of the annual audit report, the accountant must notify the Commissioner immediately.

(C) The accountant and the licensee must immediately report to the Commissioner and the Escrow Agents' Fidelity Corporation shortages created by unlawful acts.

(6) Determine whether the escrow liability total and the bank statement balance on the trust account reconciliation are correctly adjusted to reflect the accurate escrow liability balance and bank balance.

(A) Determine whether the reconciling items are properly shown as adjustments to the escrow liability or the bank balance. All descriptions of adjusting entries must include sufficient information for determining the escrow accounts affected, and the date and event that created the need for the adjusting entry. Reconciling items to be adjusted to the escrow liability total must include a statement indicating the reason for the adjustment such as but not limited to (1) late issuance of a receipt; (2) late posting of an incoming wire; (3) missing deposit; (4) returned deposit; (4) error posting of a receipt; (5) stopped check that cleared; (6) erroneous cancellation of a check that cleared; (7) late issuance of a check that cleared; (8) late posting of an outgoing wire; or (9) un-posted interest earned from an interest bearing account. Reconciling items to be adjusted to the bank statement balance must include a statement indicating the reason for the adjustment such as but not limited to (1) deposits in transit; (2) late deposit; (3)

error posting of a deposit/cleared check by bank; (4) erroneous wire amount transferred by bank; (5) bank service charges; or (6) trust funds deposited into the general account.

(B) Examine the escrow ledger and source documents of each reconciling item. Source documents include, but are not limited to (1) the receipt issued, (2) copies of deposited check and validated deposit slip, (3) copy of canceled check, (4) bank wire transfer confirmation, (5) wire authorization form, and (6) bank statement. Explain each reconciling item in the report of findings. Include in the explanation the (1) escrow number, (2) receipt number or check number, (3) cause and resolution of the reconciling item, and (4) date of adjustment. Include an affirmative statement whether or not adjustment of the reconciling item causes a debit balance and if any reconciling item was not adjusted as of the report date. Examples of reconciling items that cause debit balances include, but are not limited to, (1) returned deposits or correction of a receipt to a smaller amount after disbursement of trust funds; (2) missing deposits; (3) erroneous cancelation of a check that cleared; (4) stopped check that cleared; (5) late posting of an outgoing wire after close of escrow; (5) bank service charges to the trust account; and (6) deposit of trust funds into the general account.

(C) If a debit balance existed at fiscal year-end, explain the resolution and perform the additional procedure provided in paragraph (5)(A) of this subsection.

(D) If the reconciling item is not resolved as of the annual audit report date, include a statement of this fact and an anticipated date of resolution.

(7) Include a statement confirming that all trust and general accounts were independently confirmed in writing with the depositories, including interest bearing accounts, dormant accounts, and trust accounts maintained separately by licensee for transactions not specified in Financial Code section 17312(c).

(8) Verify the bank name, address, account number, designation, and balance at the fiscal year-end on each trust account bank statement. Trace each ending bank balance appearing on the respective bank reconciliation to the related bank confirmation and bank statement. State whether any differences exist. If differences are noted, state the resolution. State whether the accountant received the fiscal year-end bank statement directly from the bank depository, or if not, describe the additional procedures used to verify that the bank information was accurate.

(9) Verify that the outstanding checklist is complete and accurate.

(A) Foot the total on the outstanding checklist to confirm that it is accurate.

(B) Compare the first check issued in the current month to the last check number issued in the prior month to confirm that checks were consecutively issued, for every month included in the annual audit report. Account for all checks issued during the fiscal year-end month to confirm that they (1) have cleared the bank, (2) were canceled, or (3) appear on the outstanding checklist. Compare a sample of outstanding check amounts issued in the current period with those on the check register and determine that the amounts are the same.

(C) Examine the outstanding checklist to verify that canceled, voided, and cleared checks are not included.

(D) Trace a sample of ten (10) cleared checks appearing on the subsequent month bank statement that were issued prior to the fiscal year-end to the outstanding checklist and reconcile the amounts and payees. Examine outstanding checks over \$10,000 that are listed on the bank reconciliation but were not included on the subsequent month-end bank statement to determine that they are properly listed as outstanding.

(E) Examine information on the cleared checks returned with the bank statement for any unusual transactions, such as unusual payees, endorsements, or signatures. Investigate each unusual transaction for possible misappropriation or embezzlement. If checks were issued to or endorsed by officers, directors, stockholders, employees of the escrow company or affiliated companies without authorization, or a misappropriation or embezzlement is found, notify the Commissioner immediately. Confirm that the licensee has reported these occurrences to the Department, and report these occurrences directly to the Department.

(10) Verify the date and amount of the deposits in transit at the fiscal year-end. Trace the deposits in transit on the bank reconciliation to recorded receipts, the subsequent month bank statement, and source documents including copies of deposited checks and validated deposit slips. Indicate whether any deposits in transit were deposited more than two (2) business days after receipt.

(11) Trace bank returned items appearing on the fiscal year-end month trust account statements to the source documents, including copies of deposited checks, cleared checks, and recorded receipts or disbursements on the escrow ledgers. Determine whether a bank debit memo creates a debit balance, or a bank credit memo corrects a debit balance on the escrow ledger.

(12) If the licensee has more than one trust account, and transfers of cash between the trust accounts were made near within 20 days of the fiscal year end date, verify the cash receipt and disbursement dates on the escrow ledgers to test for kiting. Identify any indication of kiting in the report of findings and immediately report the indication to the Department.

(13) If the licensee maintains one set of books that includes more than one trust account, verify each adjusted bank balance as of the fiscal year-end. Show the bank

statement balances and outstanding checks for each trust account shall separately.
Include a clear description of which bank account is affected by each bank adjustment.
Validate the total of all adjusted bank balances to the adjusted escrow liability balance
for the fiscal year-end month. Reconcile each dormant trust account separately.

(e) The annual audit report must include the following documentation obtained
from the licensee.

(1) If fees receivable are included as a liquid asset on the licensee's balance
sheet, a copy of the licensee's fee ledger at the balance sheet date.

(2) Copies of the trust account reconciliations for all accounts at each location as
of the balance sheet date, including all interest bearing and dormant accounts and any
other accounts held in trust by the licensee.

(A) The trust account reconciliations must include an outstanding checklist which
includes check and escrow numbers, the dates of the payees, dates and amounts for
each check and an explanation for all adjustments and reconciling items including the
date of adjustment.

(B) The trust account reconciliation records remain subject to public disclosure
under the California Public Records Act upon redaction of account numbers or
identifiable payee information.

(3) An escrow trial balance as of the trust account reconciliation date.

(4) If applicable, a trial balance for the types of transactions specified in
subdivision (c) of Financial Code section 17312 and a separate trial balance for the
types of transactions not specified therein. The trial balances submitted with the annual
audit report containing identifiable customer information are subject to public disclosure
under the California Public Records Act upon redaction of identifiable customer
information.

(5) The schedule of the escrow liability as at the end of each month during the calendar or fiscal year as reflected in the escrow control account.

(6) A list of the address of every branch location.

(f) If in the opinion of the accountant a departure from the requirements set forth in this section is justified, upon request, the Commissioner may grant a variance upon a proper showing of suitable alternative procedures.

Note: Authority cited: Section 17400, Financial Code. Reference: Section 17406, Financial Code.

2. Section 1741.5.1 is adopted to read:

§ 1741.5.1. Closing Audit Procedures.

(a) A licensee seeking to surrender its license must enter into an attest engagement with a certified public accountant (accountant) to perform the agreed-upon procedures in this section. The accountant must be independent of the licensee in accordance with California Code of Regulations, title 16, section 65.

(b) The accountant must perform the following procedures.

(1) Obtain directly from the bank the month end bank statements for the month prior to the cessation of business of the licensee and the month following the cessation of business. For the same two month- ends, obtain the trust account reconciliations, the outstanding check listings, the escrow trial balances, and all other subsidiary listings such as receipts, checks, incoming and outgoing wires, adjustments.

(2) Follow the trust account reconciliation procedures in subsection (d)(8) of section 1741.5 of these rules on the reconciliation for the month following cessation of business. Indicate the results of each procedure in the report of findings. Examine the month prior reconciliation for adjusting items and debit balances.

(3) Examine the escrow activity reports for escrow funds that may have been disbursed without authorization or that appear to have been disbursed in an unusual manner (i.e. an escrow did not close, but the balance was not transferred to another escrow company or to the depositing party). Request the licensee explain every unauthorized or unusual disbursement. Include a statement in the report that no unlawful or unauthorized disbursement of funds was found.

(4) Determine whether any escrows were opened after the Department was notified of the licensee's intention to surrender its escrow license. Indicate in the report whether any escrow was opened during this time period, and provide the status of the escrow.

(5) Identify the escrows opened during the 45 days prior to the cessation of business. Examine the dispositions of these escrows for any unusual activity (i.e., transfer to another escrow company, close of escrow, cancellation, etc.). Describe the unusual activity in the report of finding.

(6) Verify that the licensee has escheated all remaining trust funds state in accordance with section 1517 of the Code of Civil Procedure. Describe in the report of findings the trust funds escheated to the state.

(7) Include in the report of findings the name, phone number, and address of the appointed custodian of records and the location address of the escrow files.

(c) The accountant must include in the report of findings a description of all agreed-upon procedures performed and the results of each procedure.

(d) The accountant must submit the report of findings directly to the Commissioner and include in the report a copy of the trust account reconciliations, bank statements, outstanding check listings, trial balances, and proof of remittance of all remaining trust funds to the State Controller's Office.

Note: Authority Cited: Section 17400, Financial Code. Reference: Section 17600(b), Financial Code.