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

11 In the Matter of:) Escrow License No.: 963-2147
12 THE COMMISSIONER OF BUSINESS)
13 OVERSIGHT,) CONSENT ORDER TO DISCONTINUE
14 Complainant,) VIOLATIONS
15 v.)
16 TRILOGY ESCROW, INC.)
17 Respondent.)
18)
19)

20 This Consent Order (Order) is entered into between the Commissioner of Business Oversight
21 (Commissioner) and Trilogy Escrow, Inc. (Trilogy Escrow) and is made with respect to the following
22 facts:

23 RECITALS

24 A. The Commissioner is authorized to administer and enforce the provisions of the
25 California Escrow Law (CEL) (Fin. Code, § 17000 et seq.), which include the licensure, examination,
26 and regulation of escrow agents.

27 B. Trilogy Escrow is a California corporation, with a principal place of business at 1325
28 Corona Pointe Court, Suite 103, Corona, California, and has been licensed by the Department of

1 Business Oversight (DBO) as an escrow agent since July 5, 2005 (Escrow License No. 963-2147).
2 Trilogy Escrow also maintains a branch office at 7910 Girard Ave., Suite 8, La Jolla, California, and
3 500 S. Kremer Boulevard., Suite 390, Brea, California.

4 C. On May 10, 2018, Trilogy Escrow sent a letter to the DBO to report a theft of trust
5 funds held in an escrow account that had occurred on April 17, 2018. The thief perpetrated the theft
6 by illegally gaining control of a well-known escrow customer's email account by hacking it without
7 the customer's knowledge and obtained information from the emails in that account about when an
8 escrow transaction involving that customer would be closing. The thief then used the customer's
9 hacked email account to send a fraudulent email to Trilogy Escrow purporting to be from the
10 customer and providing amended written escrow instructions requesting that the customer's funds
11 immediately be sent to a bank account controlled by the thief. In reliance on the fraudulent email,
12 Trilogy Escrow complied with the amended escrow instructions and transferred the funds from the
13 escrow trust account to the thief's bank account the same day.

14 D. The following day on April 18, 2018, Trilogy Escrow received a phone call from the
15 real customer inquiring where the escrow money was. Trilogy Escrow then confirmed the email
16 providing the amended escrow instructions had been fraudulent and contacted the bank where the
17 money had been sent to attempt to freeze the thief's account and recover the funds. Trilogy Escrow
18 also contacted the FBI to report the theft. Using its own assets, Trilogy Escrow promptly replaced the
19 funds in the escrow trust account that had been transferred to the thief's account in reliance on the
20 fraudulent escrow instructions. Trilogy Escrow eventually recovered most of the funds that had been
21 transferred to the thief's bank account and absorbed the loss of the funds that were not recoverable
22 out of its own assets. No escrow customer suffered a loss due to the theft, and the delay in paying the
23 funds to the customer whose email account was hacked was minimal.

24 E. Based on the DBO's investigation, the Commissioner concludes Trilogy Escrow
25 committed violations of the CEL, including failing to follow procedures to verify escrow instructions
26 with all interested principals in writing prior to disbursement that would have prevented the theft.
27 This includes the Commissioner finding that Trilogy Escrow (1) allowed written escrow instructions
28 to be left blank as to where the money was to be sent at the time the parties originally signed them,

1 and later allowed those instructions to be amended without requiring the signature of all interested
2 parties in violation of Financial Code section 17403.2; (2) disbursed escrow trust funds not in
3 accordance with written escrow instructions executed by the principals of the escrow transaction in
4 violation of California Code of Regulations section 1738 subdivision (a); and (3) waited 21 days to
5 report the theft to the DBO instead of reporting it immediately as required by Financial Code section
6 17414 subdivision (c).

7 F. Trilogy Escrow admits to the jurisdiction of the Commissioner with respect to the
8 subject matter of this Order and consents to entry of this Order as resolution of the matter without the
9 Commissioner filing an Accusation to initiate administrative action. Trilogy Escrow agrees to this
10 consent order to demonstrate further its cooperation with the DBO and its intention to discontinue the
11 violations of the CEL and to implement policies and procedures to prevent similar thefts from
12 occurring.

13 G. The Commissioner finds that this action is appropriate, in the public interest, and
14 consistent with the purposes fairly intended by the policy and provisions of the CEL.

15 NOW, THEREFORE, in consideration of the foregoing, and of the terms and conditions set
16 forth herein, the parties agree as follows:

17 TERMS AND CONDITIONS

18 1. Purpose.
19 The purpose of this Order is to resolve the issues only as to the Commissioners Order to
20 Discontinue Violations by Trilogy Escrow in a manner that avoids the expense of a hearing and
21 possible further court proceedings. Trilogy Escrow consents to the terms of this Order to
22 Discontinue.

23 2. Discontinue Violations.
24 Trilogy Escrow stipulates to the finality of this Order by the Commissioner to discontinue
25 violations of Financial Code sections 17403.2, 17414 subdivision (c) as well as California Code of
26 Regulations section 1738 subdivision (a), issued pursuant to Financial Code sections 17602 and
27 17604.

28 3. Waiver of Hearing Rights.

1 Trilogy Escrow has read this Order, is aware of its rights to a hearing and appeal in this matter
2 if a formal enforcement action had been commenced to request the relief specified under this Order,
3 and elects to permanently waive any right to the filing of an accusation, a hearing and appeal,
4 including those rights under Financial Code sections 17604, 17605 and 17608, and to judicial review
5 of this matter pursuant to Code of Civil Procedure section 1094.5 with respect to the issuance of this
6 Order.

7 4. Future Actions by the Commissioner.

8 The Commissioner reserves the right to bring any future action(s) against Trilogy Escrow, or
9 any of its partners, owners, officers, directors, shareholders, employees, or successors for any and all
10 past or future violations of the Financial Code, and Trilogy Escrow reserves any and all defenses and
11 objections thereto. This Order shall not serve to exculpate Trilogy Escrow, or any of its partners,
12 owners, officers, directors, shareholders, employees, or successors from any administrative, civil or
13 criminal liability for any past or future violations of the CEL not covered by this Order or to estop
14 Trilogy Escrow or any of its partners, owners, officers, directors, shareholders, employees, or
15 successors from asserting objections or defenses to any assertions of administrative, civil or criminal
16 liability for any past or future violations of the CEL.

17 5. Independent Legal Advice.

18 Each party represents, warrants, and agrees that it has received independent advice from its
19 attorney(s) and/or representatives with respect to the advisability of executing this Order.

20 6. Voluntary Agreement.

21 Trilogy Escrow enters into this Order voluntarily and without coercion and acknowledges that
22 no promises, threats or assurances have been made by the Commissioner or any officer, or agent
23 thereof, about this Order.

24 7. Public Record.

25 Trilogy Escrow acknowledges that this Order is a public record.

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1 8. Authority to Execute.

2 Each signatory hereto covenants that he or she possesses all necessary capacity and authority
3 to sign and enter into this Order.

4 9. Effective Date.

5 This Order shall become effective upon being signed by all parties and upon being mailed by
6 First Class U.S. Mail to Jane Beach, Branch Manager, Trilogy Escrow, Inc., 1325 Corona Pointe
7 Court, Suite 103, Corona, California 92879 and sent by email to Trilogy Escrow’s attorney Steven
8 Ray Garcia, at the email address steven@garcialegal.email.

9 THEREFORE, GOOD CAUSE APPEARING, IT IS ORDERED Trilogy Escrow, Inc.
10 discontinue violations of Financial Code sections 17403.2 and 17414 subdivision (c) as well as
11 California Code of Regulations section 1738 subdivision (a) and implement procedures and policies
12 to prevent similar violations.

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14 Dated: August 6, 2019

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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By _____

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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20 Dated: August 6, 2019

TRILOGY ESCROW, INC.

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By _____

President, Trilogy Escrow, Inc.

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