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9
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
11 OF THE STATE OF CALIFORNIA

12
13 In the Matter of:) File No.: 96DBO-80565
)
14 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
15) ACCUSATION TO BAR ALEXANDRA
Complainant,) LORRAINE SMITH FROM ANY POSITION
16) OF EMPLOYMENT, MANAGEMENT, OR
v.) CONTROL OF ANY ESCROW AGENT
17) FINANCIAL CODE SECTION 17423
18 ALEXANDRA LORRAINE SMITH,)
19)
Respondent.)
20)
21)

22 Complainant, the Commissioner of Financial Protection and Innovation (Complainant or
23 Commissioner), is informed and believes, and based upon such information and belief, alleges and
24 charges Respondent as follows:

25 **I.**

26 **Introduction**

27 1. Respondent Alexandra Lorraine Smith, is at all relevant times herein, an escrow
28 officer at Cloud Escrow, Inc. (CEI). Smith was employed by CEI from March 29, 2018 through

1 March 15, 2021.

2 2. CEI is an escrow agent licensed by the Commissioner pursuant to the Escrow Law of
3 the State of California (Fin. Code section 17000 et seq) with its principal place of business at 20657
4 Golden Springs Drive, Suite 204A, Diamond Bar, California 91789. Jasmine Lee (Lee) is the
5 president of CEI.

6 3. The Commissioner brings this action to bar Smith pursuant to Financial Code section
7 17423 because Smith has violated Financial Code section 17414, subdivision (a)(1) by disbursing
8 escrow funds without proper authorization and California Code of Regulations Section 1738 for
9 disbursing trust funds without instructions.

10 **II.**

11 **Factual Background**

12 4. On April 19, 2021, CEI notified the Commissioner about a possible fraudulent
13 demand letter created by Smith on the City of Los Angeles (City) letterhead, for an invoice that does
14 not exist related to escrow number 021790-AS. Smith purportedly submitted the demand letter to
15 Pacific Coast Title (Pacific Coast), to enable Pacific Coast to release the seller's proceeds and close
16 escrow.

17 5. On May 3, 2021, the Commissioner through her staff commenced a special
18 examination of CEI in light of the report she received on April 19. The examination covered the
19 period from April 2020 to March 2021. The examiner handling the examination (Examiner)
20 interviewed Lee, reviewed the last 12 months escrow ledgers to determine if there were any
21 suspicious activity handled by Smith. The Examiner also selected four additional files to review in
22 addition to escrow number 021790-AS. The Examiner found a duplicate disbursement, handled by
23 Smith, in escrow number 020844-AS. No other suspicious activity was found on the other files. The
24 activities related to the two files at issue are discussed below.

25 6. Escrow number 021790-AS was opened on January 21, 2021 and closed on March 5,
26 2021. Smith was listed as the escrow officer. During the escrow process, Pacific Coast noted a lien
27 on the property executed by the City as shown on the preliminary title report of the property. There
28 were several emails exchanged between Smith and Pacific Coast during the period of March 3

1 through March 15, 2021, as outlined below, related to the lien on the property and the demand letter
2 from the City.

3 a. March 3, 2021, at 5:05 p.m., Pacific Coast requested Smith provide item number 8 –
4 the demand letter from the City in order to close the escrow. Smith responded that she has requested
5 the demand letter from the City since January but had not heard back.

6 b. March 4, 2021, at 10:48 a.m., Smith emailed Pacific Coast and advised them that the
7 county verbally said the lien was cleared. Smith indicated that the county needed Smith to submit a
8 signed notarized form requesting to release the lien. Smith asked Pacific Coast if they could record
9 the title transfer and withhold some funds from the seller to pay the City demand and recording cost.
10 Pacific Coast agreed to record the title transfer on March 5, 2021, but withheld the seller's proceeds
11 in the amount of \$200,000.00 until they receive the demand letter from the City.

12 c. March 11, 2021, at 1:54 p.m., an email from Jazelle A. Trinidad (Trinidad) of the
13 City's Financial Services Department, to Smith, stated that the City was in the process of drafting the
14 demand letter for 4337 O'Neill St. (the subject property). However, Trinidad required Smith provide
15 a copy of the grant deed so that they can complete the request.

16 d. March 12, 2021, at 5:10 p.m., Smith sent an email to Pacific Coast. Attached to that
17 email was the City's demand letter in the amount of \$150.00 and invoice number 852742-2. Smith
18 requested that Pacific Coast release the seller's proceeds that Pacific Coast was withholding. The
19 demand letter, dated March 12, 2021 and with the signature of Jeremy Coronel, an accountant at the
20 City's Financial Services Department, was attached to the last page of the email identified as
21 CF03122021_0002.pdf.

22 e. March 15, 2021, at 8:57 a.m., a Pacific Coast assistant forwarded Smith's email, with
23 the demand letter, to Ryan Vuong (Vuong), a title officer at Pacific Coast, indicating that the
24 demand in item number 8 has been received so that the holding fund can be released. The demand
25 letter was attached on the last page of the email with the same pdf name "CCF03122021_0002.pdf"
26 that Smith sent on March 12 at 5:10 p.m.

27 7. One March 16, 2021, one day after Smith left CEI, Trinidad sent Smith the demand
28 letter for outstanding fees in the amount of \$660.00 with invoice number 810267-4. The demand

1 letter was dated March 11, 2021 and signed by Grace Pangilinan, an accountant from the City's
2 Financial Services. The demand letter, in the amount of \$660.00 with invoice number 810267-4, was
3 attached to the last page of Trinidad's email with the pdf name "4337 O'Neill St.pdf". The letter
4 stated the City would no longer pursue the lien as the result of the change in ownership. The City
5 prepared a release for the lien and would file the release with the County Registrar Records Office.

6 8. In or around March 16, 2021, Lee also found an unsigned version of the City demand
7 letter dated, March 12, 2021, on City letterhead, on the desktop computer used by Smith at CEI.

8 9. On March 23, 2021, Lee received a phone call from Vuong who informed Lee that
9 the City advised him they did not have invoice number 852742-2 on file and that the demand letter
10 was fraudulent.

11 10. CEI's information technology (IT) administrator confirmed that CEI's IT personnel
12 were responsible for setting up computer access for CEI employees, including Smith. Each
13 employee at CEI obtains their own secure username and password to log on to their computer and
14 email. The employees do not share computers, email addresses, or workstations. Moreover, the
15 employees do not share their username and password. Only the IT administrator can reset the
16 username and password when there are issues. If the computer is idle for five minutes, the screen is
17 automatically logged out.

18 11. Escrow number 020844-AS was found to have a duplicate disbursement of
19 \$21,112.77. Escrow instructions dated August 13, 2020 authorized CEI to disburse \$21,087.02 from
20 the seller's proceeds to the seller's lender NR, or the Navy Federal Credit Union. The seller also
21 agreed to pay off fees owed in addition to the \$21,087.02. The purpose of this instruction is for
22 escrow to pay off the seller's loan from the sale proceeds. According to the Navy Federal Credit
23 Union wire instruction, the final payoff loan demand was \$21,112.77.

24 a. On August 21, 2020, Smith issued an outgoing wire from Nano bank trust account to
25 NR for \$21,112.77. Smith issued this outgoing wire at the bank without recording the disbursement
26 in the escrow ledger.

27 b. On August 21, 2020, Smith also issued check number 16345 from the escrow trust
28 account to the Navy Federal Credit Union in the amount of \$21,112.77. The check was paid by Nano

1 Bank on August 31, 2020.

2 c. The escrow ledger only showed one payment, but Nano Bank was debited twice on
3 August 21, 2020, and August 31, 2020, causing a trust account shortage in the amount of \$21,112.77
4 from August 31, 2020 to September 25, 2020.

5 d. On September 25, 2020, upon CEI’s discovery of the shortage in the trust fund, CEI
6 transferred \$21,112.77 from its general account. Receipt number 2308 was issued to credit the
7 escrow ledger.

8 e. On November 2, 2020, CEI recovered \$21,112.77 from the Navy Federal Credit
9 Union. Receipt number 2314 was issued to credit the escrow ledger. Thereafter, CEI reimbursed the
10 fund from the trust account to the general account on November 16, 2020.

11 **III.**

12 **Applicable Law**

13 12. Financial Code section 17414 provides in pertinent part:

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

17 (1) Knowingly or recklessly disburse or cause the disbursement of escrow
18 funds otherwise than in accordance with escrow instructions, or
19 knowingly or recklessly to direct, participate in, or aid or abet in a
20 material way, any activity which constitutes theft or fraud in
21 connection with any escrow transaction.

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

26 13. Financial Code section 17423 provides in pertinent part:

27 (a) The commissioner may, after appropriate notice and opportunity
28 for hearing, by order, censure or suspend for a period not exceeding 12
months, or bar from any position of employment, management, or
control any escrow agent, or any other person, if the commissioner
finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and
that the person has committed or caused a violation of this division or
rule or order of the commissioner, which violation was either known

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or should have been known by the person committing or causing it or has caused material damage to the escrow agent or to the public.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any escrow processing activities, including disbursing any trust funds in the escrow agent's possession, custody or control, and the financial institution holding trust funds shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

(e) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed escrow agent and from engaging in any business activity on the premises where a licensed escrow agent is conducting escrow business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal escrow transactions processed by a licensed escrow agent.

14. California Code of Regulations, title 10, section 1738, provides in pertinent 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.

15. California Code of Regulations, title 10, section 1741.3, provides in pertinent 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

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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....

IV.

Conclusion

16. The Commissioner finds that, by reason of the foregoing, (i) Respondent Alexandra Lorraine Smith has violated Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, section 1738; and (ii) California Code of Regulations Section 1741.3, and based thereon, it is in the best interest of the public to bar Respondent Alexandra Lorraine Smith from any position of employment, management, or control of any escrow agent.

V.

Prayer

WHEREFORE, IT IS PRAYED that pursuant to Financial Code section 17423, subdivision (a)(1), Respondent Alexandra Lorraine Smith be barred from any position of employment, management, or control of any escrow agent.

Dated: March 15, 2023
Los Angeles, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By _____
Marlou de Luna
Senior Counsel
Enforcement Division