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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.: 963-2226
)
12 THE COMMISSIONER OF BUSINESS) **STATEMENT OF FACTS IN SUPPORT OF**
OVERSIGHT,) **ORDER TO DISCONTINUE VIOLATIONS**
13) **PURSUANT TO FINANCIAL CODE**
14 Complainant,) **SECTION 17602 AND NOTICE OF INTENT**
) **TO MAKE ORDER FINAL**
15 v.)
)
16 RIDGEGATE ESCROW, INC.,)
)
17 Respondent.)
18)

19
20 The Commissioner of Business Oversight (Commissioner) is informed and believes and
21 based upon such information and belief, alleges and charges as follows:

22 **I.**

23 **Introduction**

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

27 2. Ridgeway is an escrow agent licensed by the Commissioner pursuant to the
28 Escrow Law (Fin. Code § 17000 et seq.). Ridgeway has its principal place of business located at

1 24025 Park Sorrento, Suite 110B, Calabasas, California 91302. Ridgeway operates five branch
2 offices including a branch office at 9151 Reseda Boulevard, Northridge, California 91324.

3 II.

4 Statement of Facts

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

9 4. Under California Code of Regulations, title 10, section 1738.1, debit balances are
10 prohibited in trust accounts. Ridgeway allowed a debit balance in the amount of \$106,933.19 to
11 exist in its trust account from August 28, 2017 until September 14, 2017.

12 5. Under Financial Code section 17414(c), all licensees must immediately report an
13 abstraction or misappropriation of escrow funds in writing to the Commissioner. Ridgeway
14 failed to immediately report the misappropriation of Ridgeway's trust funds to the Commissioner
15 that occurred on August 28, 2017.

16 6. Under Financial Code section 17414(a)(2), it is a violation of statute to knowingly
17 or recklessly make or cause to be made any misstatement or omission to state a material fact
18 pertaining to an escrow or escrow affairs. Ridgeway caused a misstatement or an omission in a
19 statement, when its agent represented to the Department of Business Oversight (DBO) that there
20 was no theft of escrow funds and that the funds were in control of the bank at which the
21 company's trust account was located.

22 7. Escrow #500-101224-SH was opened in Ridgeway's branch office in Northridge,
23 California for property located in Lancaster, California. On June 23, 2017, the seller/principal of
24 Escrow #500-101224-SH signed an Addendum to Residential Agreement & Joint Escrow
25 Instructions (Addendum). On page 11, section FF of the instructions states in part, "All
26 disbursements shall be made by check to Escrow Holder's account; . . . All documents and funds
27 due to respective parties shall be made by United States mail to parties' addresses provided to
28 Escrow Holder, unless otherwise instructed . . . "

1 8. On August 25, 2017, a person, assuming the identity of the seller’s real estate
2 agent (imposter), emailed Ridgegate, requesting information about the process to disburse the
3 sellers escrow funds by wire into a “personal trading account” of the seller at a bank. The
4 imposter represented that the personal trading account was the seller’s account, but in reality, the
5 bank account was not the seller’s account nor at the seller’s bank. Ridgegate emailed the
6 imposter wire transfer forms to be signed by the seller.

7 9. Later in the day on, August 25, 2017, the imposter emailed Ridgegate the
8 completed wire transfer documents with a purported signature of the seller and asked if a
9 confirmation phone call from the seller was required. Ridgegate responded that that wire
10 transfer would be done on August 28, 2017.

11 10. On August 28, 2017, the imposter emailed Ridgegate to ask if the wire transfer
12 was completed. Ridgegate responded and stated that a phone call was made to the seller, but the
13 seller did not answer, and voicemail was not set up. Ridgegate asked the imposter to have the
14 seller call them. Subsequently the same day, a person purporting to be the seller called Ridgegate
15 to confirm the wire transfer.

16 11. Thereafter, on August 28, 2017, Ridgegate wired \$106,933.19 of the seller’s
17 funds from its escrow trust account at a bank to a second bank to be deposited in the “personal
18 trading account.” The personal trading account was in a similar but not identical name as the
19 seller. Ridgegate’s transferring \$106,933.19 from the seller’s escrow account to the second bank
20 was in violation of the seller’s written instruction contained in the Addendum, signed on June 23,
21 2017, that the disbursement be made to the seller directly by check.

22 12. On September 6, 2017, after not receiving any escrow funds, the seller wrote to
23 Ridgegate demanding that Ridgegate release the funds immediately and issue a check in
24 accordance with the instructions in the June 23, 2017 Addendum. In the letter, the seller
25 explained that he no longer owned the home but also did not have any of the proceeds from the
26 sale of the home due to Ridgegate’s delay.

27 13. On September 8, 2017, counsel for Ridgegate informed the seller that the funds
28 would be ready to be picked up on September 13, 2017.

1 14. On September 18, 2017, the seller received the funds from Ridgegate but was
2 required to sign a release of liability, releasing Ridgegate from all known and unknown liability
3 in connection with the escrow transaction.

4 15. As a result of Ridgegate's unauthorized disbursement of the seller's escrow funds,
5 a trust account shortage of \$106,933.19 was created in Escrow #500-101224-SH. The trust
6 account shortage in Ridgegate's trust account existed from August 28, 2017 until September 14,
7 2017, when Ridgegate fully replaced the debit balance with funds from its operating account.

8 16. On January 30, 2018, the second bank returned \$106,933.19 to Ridgegate's bank
9 and Ridgegate transferred the funds back into its operating account.

10 17. The DBO did not learn about the cyber fraud until DBO reviewed Ridgegate's
11 audited annual report for the fiscal year ending October 31, 2017. The annual report was dated
12 February 3, 2018 but DBO did not received the annual report until February 20, 2018.

13 18. On May 11, 2018, DBO wrote to Ridgegate stating that DBO had no record of
14 Ridgegate reporting the issue regarding cyber fraud and requested within 10 days a detail
15 explanation of the circumstances that led to the cyber fraud, the branch that the cyber fraud
16 occurred at and steps being taken to correct it. DBO also requested supporting documents of the
17 cyber fraud including emails threads.

18 19. On May 21, 2018, Ridgegate's agent, responded to DBO's request, indicating
19 that there had been no theft of trust funds. Ridgegate's agent explained that the funds were in
20 control of the bank at which the company's trust account is located and being held by the bank
21 pending an internal investigation. Ridgegate's agent further explained that Ridgegate did not
22 consider the episode a theft and consequently did not report it. Ridgegate's agent did not
23 produce any documents as requested. While Ridgegate did not consider the cyber fraud as a
24 theft, it is the opinion of the Commissioner that the cyber fraud is the type of event that is
25 required to be immediately reported as the funds were actually transferred out of the escrow
26 account and not available to the seller.

27 20. On May 22, 2018, DBO emailed Ridgegate to request a complete response to
28 DBO's questions outlined in the May 11, 2018 letter.

1 her intention to make the order final.

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3 Dated: January 7, 2019

JAN LYNN OWEN
Commissioner of Business Oversight

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By _____
PAUL YEE
Senior Counsel
Enforcement Division

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