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Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. FRANKLIN ROXAS, Respondent.	File Nos.: 963-1818 & 963-2545 ACCUSATION

The Complainant is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I

Respondent Franklin Roxas ("Roxas") was, at all times relevant in Section II below, an escrow officer at Q & S Escrow, Inc. (“Q & S”), an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.). The licensed location of Q & S is 4747 Viewridge Avenue, Suite 108, San Diego, California 92123.

Roxas was, at all times relevant in Section III below, an escrow officer at Clear Escrow, Inc. (“Clear Escrow”); also an escrow agent licensed by the Commissioner pursuant to the Escrow Law. The licensed location of Clear Escrow is 2605 Camino Del Rio South, Suite 302, San Diego,

State of California – Department of Corporations

California 92108.

II

On or about January 19, 2012, the Commissioner, by and through staff, commenced a special examination of Q & S to review escrow files handled by Roxas based upon information received by the Department of Corporations ("Department") that Roxas had been disbursing trust funds to unauthorized persons. The special examination disclosed that Roxas had made five (5) unauthorized disbursements of trust funds totaling $16,003.39 between May 2, 2011 and August 25, 2011 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. Each of the unauthorized disbursements of trust funds described below also caused a shortage to exist in the trust account in violation of California Code of Regulations, title 10, section 1738.1.

The unauthorized disbursements and other violations noted during the special examination are described as follows:

1. Escrow Number 11-917-LH:

(a) On or about May 2, 2011, Q & S received a refund from Corinthian Title Company in the amount of $1,461.67 for over payment of taxes by the seller. Instead of refunding the monies to the seller, Roxas, on or about May 2, 2011, disbursed those funds to his domestic partner, Stephen Bushue ("Bushue"), via trust check number 12134.

(b) On or about May 2, 2011, Roxas violated Financial Code section 17414(a)(2) by altering the final HUD-1 to delete the entry of taxes in the amount of $1,461.67 on page 1, line 507 and add "Negotiator Fee to Stephen Bushue" on page 2, line 1306.

2. Escrow Number 11-932-FR:

(a) On or about August 10, 2011, Q & S received a refund from Stewart Title in the amount of $2,877.48 for over payment of taxes by the seller. Instead of refunding the monies to the seller, Roxas, on or about August 11, 2011, disbursed those funds to Bushue via trust check number 12534.

3. Escrow Number 11-977-FR:

(a) On or about July 13, 2011, Roxas made two unauthorized disbursements of trust

State of California – Department of Corporations

funds to Bushue in the respective amounts of $1,439.01 and $8,295.36 via trust check numbers 12380 and 12387.

(b) On or about July 12, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursements to be made to Bushue in the respective amounts of $8,295.36 and $1,439.01 as property taxes and association dues.

4. Escrow Number 11-1019-FR:

(a) On or about August 25, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $1,929.87 via trust check number 12548.

(b) On or about August 23, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the amount of $1,929.87 as a negotiator fee.

II

On or about January 26, 2012, the Commissioner, by and through staff, commenced a special examination of Clear Escrow to review escrow files handled by Roxas based upon information received by the Department that Roxas had been disbursing trust funds to unauthorized persons. The special examination disclosed that Roxas had made ten (10) unauthorized disbursements of trust funds totaling $25,103.05 between December 9, 2011 and December 22, 2011 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. Each of the unauthorized disbursements of trust funds described below also caused a shortage to exist in the trust account in violation of California Code of Regulations, title 10, section 1738.1. The trust account shortage has been corrected as noted below.

The unauthorized disbursements and other violations noted during the special examination are described as follows:

1. Escrow Number MV-10097-FR:

(a) On or about December 13, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $500.00 via trust check number 10513. Roxas has returned these funds to Clear Escrow.

State of California – Department of Corporations

2. Escrow Number MV-10111-FR:

(a) On or about December 10, 2011, Roxas made two unauthorized disbursements of trust funds to Delvie Jouldijian ("Jouldijian") in the amount of $5,000.00 each via trust check numbers 10608 and 10609. The funds were later recovered from Jouldijian.

3. Escrow Number MV-10157-FR:

(a) On or about December 7, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $1,127.18 via trust check number 10450. Roxas has returned these funds to Clear Escrow.

(b) On or about December 7, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to Bushue in the amount of $1,127.18 as property taxes.

4. Escrow Number MV-10174-FR:

(a) On or about December 22, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $1,476.61 via trust check number 10740. Clear Escrow was able to successfully stop payment on this check.

(b) On or about December 19, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the amount of $1,476.61 as property taxes.

5. Escrow Number MV-10175-FR:

(a) On or about December 19, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $5,521.77 via trust check number 10652. Clear Escrow was able to successfully stop payment on this check despite the check initially clearing the bank.

(b) On or about December 16, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the amount of $5,521.77 as delinquent property taxes.

6. Escrow Number MV-10202-FR:

(a) On or about December 17, 2011, Roxas made two unauthorized disbursements of trust funds to Bushue in the respective amounts of $1,064.45 and $675.00 via trust check numbers

State of California – Department of Corporations

10617 and 10618. Clear Escrow was able to successfully stop payment on these checks despite the checks initially clearing the bank.

(b) On or about December 18, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final closing statement that misrepresented the unauthorized disbursements to Bushue in the amount of $1,064.45 and $675.00 as delinquent property taxes and real estate commissions.

7. Escrow Number MV-10228-FR:

(a) On or about December 7, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $211.72 via trust check number 10439. Roxas has returned these funds to Clear Escrow.

(b) On or about December 5, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the amount of $211.72 as HOA fees.

8. Escrow Number MV-10362-FR:

(a) On or about December 18, 2011, Roxas made an unauthorized disbursement of trust funds to Bushue in the amount of $4,526.32 via trust check number 10625. Clear Escrow was able to successfully stop payment on this check despite the check initially clearing the bank.

(b) On or about December 14, 2011, Roxas violated Financial Code section 17414(a)(2) by preparing a final HUD-1 that misrepresented the unauthorized disbursement to be made to Bushue in the amount of $4,526.32 as property taxes.

IV

California Financial Code section 17423 provides in pertinent part:

> (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . 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 . . . 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 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.

State of California – Department of Corporations

V

Complainant finds that, by reason of the foregoing, Respondent Franklin Roxas has violated Financial Code sections 17414(a)(1) and 17414(a)(2) and California Code of Regulations, title 10, sections 1738, 1738.1, and 1738.2 and it is in the best interests of the public to bar Respondent Franklin Roxas from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondent Franklin Roxas be barred from any position of employment, management or control of any escrow agent.

Dated: October 23, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Judy L. Hartley
Senior Corporations Counsel

State of California – Department of Corporations