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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA
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11 In the Matter of the Accusation of THE)
CALIFORNIA COMMISSIONER OF)
12 BUSINESS OVERSIGHT,)

FILE NO. 963-1110

13 Complainant,)

**ORDER BARRING DARIEN KINTNER
FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT, OR
CONTROL OF ANY ESCROW AGENT**

14 v.)

15 DARIEN KINTNER, as an individual,)

16 Respondent.)
17)
18)
19)
20)

21 The California Commissioner of Business Oversight (“Commissioner”) finds:

22 A. Respondent Darien Kintner was, at all times relevant herein, the vice president and
23 director of The Escrow Forum (“Escrow Forum”). Darien Kintner resigned from the company on
24 November 12, 2010.

25 B. Escrow Forum is a family-owned business.

26 C. Charles Kintner, Escrow Forum’s president and owner, is Darien Kintner’s father.

27 D. On or about November 3, 2010, the Commissioner commenced a regulatory
28 examination at Escrow Forum’s licensed location. The examiner provided Darien Kintner with a list

1 of items she needed to complete the examination, including a list of outstanding checks as of October
2 31, 2009.

3 E. When the examiner returned to perform the follow-up portion of her exam on
4 November 16, 2010, she met with Charles Kintner who informed her that Darien Kintner had
5 resigned from the company. The examiner asked Charles why Darien Kintner had resigned and he
6 responded that his son had “done something stupid.” The examiner then asked what it was Darien
7 Kintner had done, and Charles responded that his son had taken money from the trust account for his
8 own personal use—approximately \$2,700—from escrow file number 79652. The examiner asked
9 Charles Kintner if his son had signing privileges on the trust account and he responded that his son
10 did have signing privileges in his capacity as Escrow Forum’s vice president and escrow manager.
11 She then asked Charles how many times Darien Kintner had made unauthorized disbursements from the
12 trust account and he responded that, to his knowledge, it was just the one time. Charles Kintner
13 allegedly demanded his son replace the trust funds, and on November 10, 2010, Darien Kintner wrote
14 a personal check to the Escrow Forum in the amount of \$2,700 to cover the trust loss.

15 F. The examiner subsequently demanded Charles Kintner provide her with a written
16 explanation of the incident, including the dates of Darien Kintner’s employment. Charles Kintner
17 provided a one-page letter dated November 22, 2010, in which he wrote:

18 Please be advised that on November 12, 2010, Darien Kintner advised
19 me that there appeared to be a [sic] Trust Accounting problem with
20 escrow 79652. He said he had corrected the problem and had decided
21 that he was resigning from Escrow Forum immediately. I informed him
22 I was accepting his resignation, effective the date given. He is no
23 longer an officer of the corporation.

24 G. After reviewing the letter, the examiner requested Charles Kintner provide her with an
25 additional writing detailing the trust loss, including an explanation of Darien’s unauthorized disbursement
26 of trust funds. He said that was all he could give her.

27 H. On November 16, 2010, the Commissioner’s examiner requested a copy of escrow file
28 number 79652 from which Darien Kintner had misappropriated the trust funds. Charles Kintner
attempted to locate the file but later told the examiner he could not produce the file because it had

1 been destroyed along with other files that were opened in 2005 and 2006. The examiner explained to
2 him that under Financial Code section 17400 and California Code of Regulations (“CCR), title 10,
3 section 1737.3, all escrow files must be maintained for a minimum of five years from the date of
4 close of escrow and Escrow Forum’s destruction of the escrow files was in violation of the Escrow
5 Law. In the absence of an escrow file, the examiner requested the closing statement, escrow ledger,
6 and a copy of cleared check number 441795.

7 I. According to the escrow ledger printed on November 3, 2010, escrow file number
8 79652 had closed on January 23, 2006. All the disbursements, including escrow fees, were issued on
9 the 23 of January and the file subsequently closed. But on April 21, 2008, check number 39960
10 issued to Nationwide Insurance (in the amount of \$1,283) and check number 39961 issued to AAC
11 (in the amount of \$1,497) were cancelled from the escrow. That same day, Darien Kintner issued a
12 replacement check (check number 441795) to the borrower in the amount of \$2,700. In addition, he
13 issued check number 441796 in the amount of \$80 to City National Bank to cover bank fees. The
14 examiner later discovered that Darien Kintner had failed to mail check number 441795 and it
15 remained in the escrow file, uncashed, for approximately two years.

16 J. According to the escrow ledger, on June 15, 2010, check number 456180 was re-
17 issued in the same amount (\$2,700) to the borrower. But when the examiner reviewed a copy of the
18 cancelled check she discovered that the payee was American Express and not the borrower as the
19 escrow ledger showed. Darien Kintner had issued check number 456180 to pay his American Express
20 bill.

21 K. Darien Kintner caused the following unauthorized disbursements of trust funds:

22 1. Unauthorized Disbursement of Trust Account Funds – Escrow No. 79652

23 On or about June 15, 2010, Darien Kintner caused an unauthorized disbursement of trust
24 funds to be made to American Express in the amount of \$2,700, when he cancelled trust check
25 number 441795, originally issued to the borrower, and reissued check number 456180 to American
26 Express to pay his personal debts in violation of Financial Code section 17414, subdivision (a)(1) and
27 CCR, title 10, sections 1738 and 1738.2.
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L. Making unauthorized disbursements of trust funds constitute grounds, under Financial Code section 17423, to bar a person from any position of employment, management, or control of any escrow agent.

M. On November 5, 2014, the Commissioner issued her Notice of Intention to Issue Order Barring Darien Kintner From Any Position of Employment, Management, or Control of Any Escrow Agent under Financial Code section 17423; Accusation; and accompanying pleadings against Darien Kintner based upon the above findings. The Commissioner did not receive a request for hearing from Darien Kintner and the time to request a hearing expired on November 24, 2014.

NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent Darien Kintner is barred from any employment, management, or control of any escrow agent.

Dated: November 26, 2014
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division