

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 ALAN S. WEINGER  
Deputy Commissioner  
3 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
4 Department of Corporations  
320 West 4<sup>th</sup> Street, Ste. 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604 Fax: (213) 576-7181  
6 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

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11 In the Matter of the Accusation of THE ) File No.: 963-1459  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) ACCUSATION  
13 )  
Complainant, )  
14 )  
15 vs. )  
16 MARY BAVILLE, )  
17 Respondent. )  
18 \_\_\_\_\_ )

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

21 I

22 Respondent Mary Bavage (“Bavage”) was at all times relevant herein, an escrow officer at  
23 the main office of Glen Oaks Escrow ("Glen Oaks"), an escrow agent licensed by the California  
24 Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the  
25 State of California (California Financial Code Section 17000 et seq.). Glen Oaks has its principal  
26 place of business located at 6100 San Fernando Road, Glendale, California.  
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## II

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2 In or about February 2007, the Commissioner, by and through his staff, commenced a special  
3 examination of the books and records of Glen Oaks. The special examination was commenced after  
4 the Department of Corporations (“Department”) received information from the company that it may  
5 have a trust account shortage caused by Bavage. The special examination revealed that Bavage had  
6 over-drafted escrow accounts and/or made unauthorized disbursements of trust funds to herself or to  
7 cover the over-drafts totaling at least \$233,172.60 in violation of Financial Code section 17414(a)(1)  
8 and California Code of Regulations, title 10, sections 1738, 1738.1, and 1738.2. A majority of the  
9 disbursements were unauthorized as there were no instructions in escrow authorizing the  
10 disbursements, and included a disbursement to pay the real estate taxes of Bavage, and numerous  
11 transfers of funds between escrows to cover shortages caused by Bavage in other escrows  
12 (commonly known as lapping).

13 The over-drafts and unauthorized disbursements resulted in a trust account shortage and  
14 numerous ongoing debit balances in violation of California Code of Regulations, title 10, section  
15 1738.1. Bavage returned at least \$81,290.29 of the trust account shortage and Glen Oaks cured the  
16 remaining trust account shortage.

17 Examples of unauthorized disbursements of trust funds are described as follows:

18 **1. Escrow Number 26228-MB**

19 On or about September 3, 2002, Bavage made an unauthorized disbursement of trust funds to  
20 pay real estate taxes on her real property in the amount of \$21,886.30 via trust check number 175798  
21 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
22 sections 1738 and 1738.2. This unauthorized disbursement of trust funds caused a debit balance  
23 (shortage) to exist in this escrow in the amount of \$21,886.30 in violation of California Code of  
24 Regulations, title 10, section 1738.1.

25 **2. Escrow Number 26486-MB**

26 On or about May 2, 2003, Bavage made an unauthorized disbursement of trust funds to  
27 Escrow number 26228-MB in the amount of \$28,426.84 via trust check number 203484 in violation  
28 of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738

1 and 1738.2. The unauthorized disbursement in this escrow was used to cover the shortage in Escrow  
2 number 26228-MB caused by Baviile’s unauthorized disbursement to pay her real estate taxes.  
3 While the disbursement described herein cured the shortage in Escrow number 26228-MB, it caused  
4 a shortage to exist in this escrow in the amount of \$28,426.84 in violation of California Code of  
5 Regulations, title 10, section 1738.1.

6 **3. Escrow Number 45975-MB**

7 On or about January 26, 2006, Baviile made an unauthorized disbursement of trust funds to  
8 the seller in Escrow number 48767-MB in the amount of \$204,100.00 via wire in violation of  
9 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
10 1738.2. This unauthorized disbursement of trust funds caused a shortage to exist in this escrow in  
11 the amount of \$204,100.00 in violation of California Code of Regulations, title 10, section 1738.1.

12 **4. Escrow Number 48549-MB**

13 On or about February 1, 2006, Baviile made an unauthorized disbursement of trust funds to  
14 the seller in Escrow number 45975-MB in the amount of \$325,000.00 via trust check number  
15 303823 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title  
16 10, sections 1738 and 1738.2. The unauthorized disbursement in this escrow was used to pay an  
17 authorized disbursement for Escrow number 45975-MB for which insufficient funds remained on  
18 deposit due to Baviile’s unauthorized disbursement of \$204,000.00 from Escrow number 45975-MB  
19 described in paragraph 3 above. While the disbursement described herein cured the shortage in  
20 Escrow number 45975-MB, it caused a shortage to exist in this escrow in the amount of \$325,000.00  
21 in violation of California Code of Regulations, title 10, section 1738.1.

22 **5. Escrow Number 49027-MB**

23 (a) On or about March 8, 2006, Baviile made an unauthorized disbursement of trust funds to  
24 the seller in Escrow number 48549-MB in the amount of \$233,713.32 via trust check number  
25 306220 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title  
26 10, sections 1738 and 1738.2.

27 (b) On or about March 13, 2006, Baviile made an unauthorized disbursement of trust funds  
28 on behalf of the seller in Escrow number 48549-MB in the amount of \$27,349.21 via trust check

1 number 306625 in violation of Financial Code section 17414(a)(1) and California Code of  
2 Regulations, title 10, sections 1738 and 1738.2.

3 (c) On or about March 13, 2006, Baville made an unauthorized disbursement of trust funds  
4 on behalf of the seller in Escrow number 48549-MB in the amount of \$75,400.00 via trust check  
5 number 306626 in violation of Financial Code section 17414(a)(1) and California Code of  
6 Regulations, title 10, sections 1738 and 1738.2.

7 (d) The unauthorized disbursements in this escrow were used to pay authorized  
8 disbursements for Escrow number 48549-MB for which insufficient funds remained on deposit due  
9 to Baville’s unauthorized disbursement of \$325,000.00 from Escrow number 48549-MB described  
10 in paragraph 4 above. While the disbursements described herein cured the shortage in Escrow  
11 number 48549-MB, it caused a shortage to exist in this escrow in the amount of \$336,462.53 in  
12 violation of California Code of Regulations, title 10, section 1738.1.

13 III

14 California Financial Code section 17423 provides in pertinent part:

15 (a) The commissioner may, after appropriate notice and opportunity  
16 for hearing, by order, . . . bar from any position of employment,  
17 management, or control any escrow agent, or any other person, if the  
18 commissioner finds either of the following:

19 (1) That the . . . bar is in the public interest and that the person has  
20 committed or caused a violation of this division or rule or order of  
21 the commissioner, which violation was either known or should have  
22 been known by the person committing or causing it or has caused material  
23 damage to the escrow agent or to the public.

24 IV

25 Complainant finds that, by reason of the foregoing, Respondent Baville has violated  
26 Financial Code sections 17414(a)(1) and California Code of Regulations, title 10, sections 1738,  
27 1738.1, and 1738.2 and it is in the best interests of the public to bar Respondent Baville from any  
28 position of employment, management or control of any escrow agent.

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

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Dated: February 3, 2010  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Judy L. Hartley  
Senior Corporations Counsel