

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 MICHAEL L. PINKERTON
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
5 Department of Corporations
320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

7 Attorneys for Complainant
8

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of the Accusation of THE) File No.: 963-2298
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ORDER BARRING THERESA L. MADDEN
14) FROM ANY POSITION OF EMPLOYMENT,
Complainant,) MANAGEMENT OR CONTROL OF ANY
15) ESCROW AGENT
16 vs.)
17 PREMIERE TRANSACTIONS ESCROW,)
INC. AND THERESA L. MADDEN,)
18)
19 Respondents.)

20 The California Corporations Commissioner (“Commissioner”) finds that:

21 1. Respondent Theresa L. Madden (“Madden”) is, and was at all times relevant herein,
22 the president and sole shareholder of Respondent Premiere Transactions Escrow, Inc. ("Premiere"),
23 an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or
24 "Complainant") pursuant to the Escrow Law of the State of California (California Financial Code
25 Section 17000 et seq.). Premiere had its principal place of business located at 23172 Plaza Pointe
26 Drive, Suite 110, Laguna Hills, California 92653.

27 2. On July 25, 2008, the Commissioner, by and through his staff, commenced a special
28 examination of the books and records of Premiere. The special examination was commenced after

1 the Department of Corporations (“Department”) received information that escrow customers were
2 unable to get hold of Premiere regarding their escrow transactions. The special examination initially
3 revealed that commencing on or about May 22, 2007 and continuing through at least August 11,
4 2008, Premiere, by and through Madden, had transferred or otherwise disbursed trust funds totaling
5 at least \$172,803.85 to its operating account and/or the personal account(s) of Madden, or otherwise
6 for the payment of business operating expenses or other non-trust related expenses in violation of
7 Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title 10,
8 sections 1738 and 1738.2. One recent unauthorized disbursement from the trust account, which
9 occurred on or about August 11, 2008, was issued to Madden’s son in the amount of \$3,000.00.

10 3. The special examination further revealed that Madden had abandoned Premiere and
11 its escrow business, despite significant trust funds remaining on deposit in the trust account¹, and the
12 landlord was in the process of evicting Premiere from its licensed location.

13 4. Further examination of the books and records since the Department took possession
14 of the escrow and trust account records as described below, revealed that the unauthorized
15 disbursements had commenced on December 1, 2006 and totaled \$176,679.85 as of August 11,
16 2008, the date of the last known unauthorized disbursement. The resulting trust account shortage
17 currently existing in violation of California Code of Regulations, title 10, section 1738.1 is at least
18 \$129,061.17 after giving credit for earned escrow fees that appear not to have been transferred out of
19 the trust account and the sum of \$33,873.68 that Madden otherwise replaced.

20 5. The unauthorized disbursements and/or diversion of trust funds discovered during the
21 special examination are described as follows:

22 **A. Internet Transfers From The Trust Account To The Operating Account:**

23 Commencing on or about December 1, 2006 and continuing through at least June 6,
24 2008, Madden made thirty-four (34) unauthorized disbursements of trust funds to the operating
25 account of Premiere totaling \$92,555.00 via Internet transfers in violation of Financial Code section
26 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. The specific
27

28 ¹ As of August 20, 2008, there remained a balance of \$87,845.11 in the trust account of Premiere.

1 dates and amounts of the unauthorized transfers of trust funds from the trust account to the operating
2 account of Premiere are as follows:

	<u>AMOUNT</u>	<u>DATE</u>
3		
4	1. \$5,805.00	December 1, 2006
5	2. \$1,200.00	March 30, 2007
6	3. \$3,000.00	April 16, 2007
7	4. \$ 950.00	June 4, 2007
8	5. \$5,000.00	September 13, 2007
9	6. \$1,000.00	October 12, 2007
10	7. \$3,000.00	October 24, 2007
11	8. \$5,000.00	October 31, 2007
12	9. \$3,000.00	November 7, 2007
13	10. \$3,000.00	November 14, 2007
14	11. \$1,000.00	December 11, 2007
15	12. \$2,000.00	December 24, 2007
16	13. \$ 500.00	December 26, 2007
17	14. \$4,000.00	January 11, 2008
18	15. \$2,000.00	January 25, 2008
19	16. \$2,000.00	January 30, 2008
20	17. \$3,000.00	February 8, 2008
21	18. \$3,000.00	February 25, 2008
22	19. \$2,250.00	February 27, 2008
23	20. \$3,000.00	March 4, 2008
24	21. \$2,000.00	March 7, 2008
25	22. \$2,000.00	March 11, 2008
26	23. \$3,000.00	March 14, 2008
27	24. \$2,000.00	March 19, 2008
28	25. \$2,000.00	March 25, 2008

1	26.	\$5,000.00	April 1, 2008
2	27.	\$2,000.00	April 8, 2008
3	28.	\$2,000.00	April 9, 2008
4	29.	\$1,500.00	April 11, 2008
5	30.	\$5,000.00	April 18, 2008
6	31.	\$3,000.00	May 6, 2008
7	32.	\$ 500.00	May 28, 2008
8	33.	\$ 350.00	June 2, 2008
9	34.	\$8,500.00	June 6, 2008

10 **B. Internet Transfers From The Trust Account To The Personal Account of**
 11 **Madden:**

12 Commencing on or about May 22, 2007 and continuing through at least through May
 13 20, 2008, Madden made twenty-three (23) unauthorized disbursements of trust funds to her personal
 14 account totaling \$45,920.00 via Internet transfers in violation of Financial Code section 17414(a)(1)
 15 and California Code of Regulations, title 10, sections 1738 and 1738.2. The specific dates and
 16 amounts of the unauthorized transfers of trust funds from the trust account to Madden’s personal
 17 account are as follows:

	<u>AMOUNT</u>	<u>DATE</u>
18		
19	1. \$1,400.00	May 22, 2007
20	2. \$4,010.00	August 1, 2007
21	3. \$1,010.00	August 30, 2007
22	4. \$3,050.00	August 31, 2007
23	5. \$1,010.00	September 7, 2007
24	6. \$1,510.00	September 11, 2007
25	7. \$1,010.00	September 26, 2007
26	8. \$3,010.00	October 3, 2007
27	9. \$1,510.00	October 9, 2007
28	10. \$ 510.00	October 12, 2007

1	11.	\$1,010.00	October 18, 2007
2	12.	\$2,010.00	October 26, 2007
3	13.	\$2,010.00	October 30, 2007
4	14.	\$ 510.00	November 7, 2007
5	15.	\$3,000.00	November 20, 2007
6	16.	\$4,000.00	January 8, 2008
7	17.	\$1,000.00	February 1, 2008
8	18.	\$1,500.00	February 8, 2008
9	19.	\$ 350.00	April 28, 2008
10	20.	\$5,000.00	May 1, 2008
11	21.	\$1,000.00	May 9, 2008
12	22.	\$1,500.00	May 15, 2008
13	23.	\$5,000.00	May 20, 2008

C. Wire Transfers From The Trust Account For Payment of Safeguard Supply

Invoices:

Commencing on or about July 26, 2006 and continuing through at least May 17, 2007, Madden made five (5) unauthorized disbursements of trust funds to Safeguard Supply to pay for business supplies totaling \$1,142.08 via wire transfers in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. The specific dates and amounts of the unauthorized transfers of trust funds from the trust account to Safeguard Supply are as follows:

	<u>AMOUNT</u>	<u>DATE</u>
23	1. \$248.41	July 26, 2006
24	2. \$ 34.79	August 15, 2006
25	3. \$257.03	September 22, 2006
26	4. \$258.01	February 14, 2007
27	5. \$343.84	May 17, 2007

28

1 **D. Trust Funds Deposited Into The Operating Account Instead Of The Trust**
2 **Account:**

3 (i) On January 11, 2007, Madden issued trust receipt number 1347 in escrow
4 number 600314-TM for monies received from the borrower in the amount of \$4,093.11, but
5 deposited the trust monies into the operating account.

6 (ii) On January 16, 2007, Madden issued trust receipt number 1349 in escrow
7 number 600325-TM for monies received from Old Republic Title Company in the amount of
8 \$2,483.55, but deposited the trust monies into the operating account.

9 **E. Other Unauthorized Disbursements/Diversions of Trust Funds:**

10 (i) On August 6, 2007, Madden made an unauthorized disbursement of trust
11 funds to Premiere in the amount of \$1,461.00 via trust check number 4548 in escrow number
12 600224-TM in violation of Financial Code section 17414(a)(1) and California Code of Regulations,
13 title 10, sections 1738 and 1738.2. That same day, in order to cover up the \$1,461.00 debit balance
14 this unauthorized disbursement caused in violation of California Code of Regulations, title 10,
15 section 1738.1, Madden violated Financial Code section 17414(a)(2) by posting another check, trust
16 check number 2565, as canceled on the escrow ledger. Trust check number 2565 had been issued on
17 November 27, 2006 in escrow number 600224-TM to CITI for \$1,461.00 and had cleared the trust
18 account on December 5, 2006.

19 (ii) On April 9, 2007, Madden made an unauthorized disbursement of trust funds
20 to Premiere in the amount of \$625.00 via trust check number 3489 in escrow number 600263-TM in
21 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,
22 sections 1738 and 1738.2. On April 9, 2007, in order to cover up the \$625.00 debit balance this
23 unauthorized disbursement caused in violation of California Code of Regulations, title 10, section
24 1738.1, Madden violated Financial Code section 17414(a)(2) by posting another check, trust check
25 number 2708, as canceled on the escrow ledger. Trust check number 2708 had been issued on
26 December 18, 2006 in escrow number 600263-TM to Premiere for \$625.00 and had cleared the trust
27 account on December 19, 2006.
28

1 (iii) On January 16, 2008, Madden made an unauthorized disbursement of trust
2 funds to Premiere in the amount of \$1,050.00 via trust check number 5079 in escrow number
3 600891-MJ in violation of Financial Code section 17414(a)(1) and California Code of Regulations,
4 title 10, sections 1738 and 1738.2. On February 20, 2008, in order to cover up the \$1,050.00 debit
5 balance this unauthorized disbursement caused in violation of California Code of Regulations, title
6 10, section 1738.1, Madden violated Financial Code section 17414(a)(2) by posting trust check
7 number 5079 as canceled on the escrow ledger, when trust check number 5079 had cleared the trust
8 account on January 17, 2008.

9 (iv) On August 13, 2007 and November 13, 2007, Madden made two unauthorized
10 disbursements of trust funds to Premiere in the respective amounts of \$2,000.00 and \$926.00 via
11 trust check numbers 4581 and 4938 in escrow number 600146-TM in violation of Financial Code
12 section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. On
13 November 13, 2007, in order to cover up at least \$2,000.00 of the \$2,926.00 debit balance these
14 unauthorized disbursements caused in violation of California Code of Regulations, title 10, section
15 1738.1, Madden violated Financial Code section 17414(a)(2) by posting trust check number 4581,
16 described hereinabove, as canceled on the escrow ledger. Trust check number 4581 had cleared the
17 trust account on August 13, 2007.

18 (v) On December 12, 2007, Madden made an unauthorized disbursement of trust
19 funds to Premiere in the amount of \$1,837.11 via trust check number 5032 in escrow number
20 600878-TM in violation of Financial Code section 17414(a)(1) and California Code of Regulations,
21 title 10, sections 1738 and 1738.2. On March 10, 2008, in order to cover up the \$1,837.11 debit
22 balance this unauthorized disbursement caused in violation of California Code of Regulations, title
23 10, section 1738.1, Madden violated Financial Code section 17414(a)(2) by posting trust check
24 number 5032, described hereinabove, as canceled on the escrow ledger when trust check number
25 5032 had cleared the trust account on December 13, 2007.

26 (vi) On August 21, 2007, Madden made an unauthorized disbursement of trust
27 funds to Premiere in the amount of \$1,587.00 via trust check number 4614 in escrow number
28 600274-LG in violation of Financial Code section 17414(a)(1) and California Code of Regulations,

1 title 10, sections 1738 and 1738.2. On October 31, 2007, in order to cover up the \$1,587.00 debit
2 balance this unauthorized disbursement caused in violation of California Code of Regulations, title
3 10, section 1738.1, Madden violated Financial Code section 17414(a)(2) by posting trust check
4 number 4614, described hereinabove, as canceled on the escrow ledger when trust check number
5 4614 had cleared the trust account on December 13, 2007.

6 (vii) On November 20, 2007, Madden made an unauthorized disbursement of trust
7 funds to Premiere in the amount of \$15,000.00 via trust check number 4962 in escrow number
8 600907-TM in violation of Financial Code section 17414(a)(1) and California Code of Regulations,
9 title 10, sections 1738 and 1738.2. Madden issued trust check number 4962 against a false receipt
10 she issued that claimed \$15,000.00 had been wired into escrow on November 20, 2007.

11 (viii) On October 31, 2007, Madden made an unauthorized disbursement of trust
12 funds to a former employee/escrow officer of Premiere in the amount of \$3,000.00 via wire in
13 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,
14 sections 1738 and 1738.2.

15 (ix) On August 11, 2008, an unauthorized disbursement of trust funds in the
16 amount of \$3,000.00 was made to Madden's son, Gary Paul Madden, via handwritten trust check
17 number 5077 (out of sequence), which cleared the trust account on August 13, 2008.

18 6. Madden's unauthorized disbursements resulting in a trust account shortage and
19 abandonment of Premiere's escrow business caused the Commissioner, on August 22, 2008, to issue
20 an Order To Discontinue Escrow Activities Pursuant to Financial Code section 17415 against
21 Premiere along with a Demand For and Order Taking Possession of the Trust Account(s) and
22 Escrow Records of Premiere Pursuant to Financial Code Section 17621, which orders were amended
23 on August 25, 2008 to address the incorrect spelling of Premiere's name. These orders were
24 necessary to offer any possible protection to the escrow customers of Premiere.

25 7. Madden's actions also caused the Commissioner to seek the appointment of a receiver
26 over the trust affairs of Premiere in order to offer any possible recovery of trust funds for the
27 affected escrow customers of Premiere.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. The above-described violations constitute grounds under Financial Code section 17423 to bar a person from any position of employment, management or control of any escrow agent.

9. On December 10, 2008, the Commissioner issued a Notice of Intention to Issue Order Revoking Escrow Agent’s License and to Issue an Order Pursuant to California Financial Code Section 17423 (Bar From Employment, Management or Control of Any Escrow Agent), Accusation and accompanying documents against Madden based upon the above, and Madden was served on January 11, 2009. The Department has received no request for a hearing from Madden and the time to request a hearing has expired.

NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent Theresa L. Madden is barred from any position of employment, management or control of any escrow agent.

Dated: February 19, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel