

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JENNIFER A. GRANAT (CA BAR NO. 199868)
Senior Corporations Counsel
4 Department of Corporations
5 320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-7518 Fax: (213) 576-7181

7
8 Attorneys for Complainant

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

12 In the Matter of the Order of THE) File No.: 963-1784
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) SUSPENSION ORDER
14)
Complainant,)
15)
v.)
16)
ASPEN EXPRESS ESCROW SERVICES,)
17 INC.,)
18)
Respondent.)

19
20 Pursuant to the allegations set forth in the Accusation issued November 5, 2009 against
21 Aspen Express Escrow Services, Inc. (“Aspen Express” or “Respondent”), it is hereby ordered that
22 the escrow agent’s license issued to Aspen Express is hereby suspended for a period of ten (10) days
23 as follows: January 14, 2010 through January 23, 2010, during which period Aspen Express shall
24 not accept any new escrow business, but may continue to process existing and open escrows, in
25 accordance with California Financial Code section 17609.

26 It is further ordered that Aspen Express shall provide the Commissioner, attention Jennifer A.
27 Granat, Senior Corporations Counsel, at close of business on January 13, 2010 via U.S. Mail to the
28 Department’s Los Angeles office, a list of all open escrows with escrow numbers and escrow party
names along with a copy of the signed escrow instructions and signed deposit receipt(s), if

1 applicable, for the last opened escrow signed by the president of Aspen Express under penalty of
2 perjury. Open escrow means an escrow wherein the parties to such escrow have already entered into
3 a binding agreement and monies and/or escrow instructions have been submitted to Aspen Express
4 regarding the transaction.

5 The foregoing Order is based on the following findings by the California Corporations
6 Commissioner (“Commissioner”):

7 1. Aspen Express is an escrow agent licensed by the Commissioner pursuant to the
8 Escrow Law of the State of California (California Financial Code Section 17000 et seq.).

9 2. Pursuant to Financial Code section 17406, all licensees under the Escrow Law are
10 required to file an annual audit report containing audited financial statements (“Audit Report”)
11 within one hundred and five (105) days after the close of their fiscal year. Respondent’s fiscal year-
12 end is December 31. Accordingly, Respondent was required to file its Audit Report for the fiscal
13 year ended December 31, 2008 on or before April 15, 2009.

14 3. On or about November 17, 2008, the Commissioner notified Aspen Express in
15 writing of the due date of its Audit Report and the penalties if the report was filed late. Aspen
16 Express failed to file its Audit Report by April 15, 2009.

17 4. On or about June 26, 2009, the Commissioner again notified Aspen Express in
18 writing that the Audit Report had not yet been received. This notification informed Aspen Express
19 that the failure to file the Audit Report may result in an assessment of penalties, a special
20 examination and/or administrative action.

21 5. Aspen Express did not file its audit report until November 25, 2009.

22 Dated: January 13, 2010

PRESTON DuFAUCHARD
California Corporations Commissioner

23
24
25 By: _____
26 Alan S. Weinger
27 Deputy Commissioner
28 Enforcement Division

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JAN LYNN OWEN
California Corporations Commissioner
MARY ANN SMITH
Deputy Commissioner
JENNIFER A. GRANAT (CA BAR NO. 199868)
Senior Corporations Counsel
Department of Corporations
320 West 4th Street, Ste. 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7518 Fax: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA)	File No.: 963-1784
CORPORATIONS COMMISSIONER,)	
)	ACCUSATION TO REVOKE CALIFORNIA
Complainant,)	ESCROW AGENT’S LICENSE
)	
v.)	
)	
ASPEN EXPRESS ESCROW SERVICES,)	
INC.,)	
)	
Respondent.)	
)	

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

3 I.

4 Respondent Aspen Express Escrow Services, Inc. (“Respondent” or “Aspen Express”) is an
5 escrow agent licensed by the California Corporations Commissioner (“Commissioner” or
6 “Complainant”) pursuant to the Escrow Law of the State of California, California Financial Code
7 Section 17000 *et seq.* Aspen Express has a principal place of business at 2605 Camino Del Rio
8 South, Suite 302, San Diego, California 92108.

9 II.

10 Pursuant to Financial Code section 17600(b), all licensees under the Escrow Law who
11 submit an application for surrender are required to file a closing audit report (“Closing Audit
12 Report”) prepared by an independent certified public accountant within one hundred five (105) days
13 of such application.

14 On or about May 10, 2012, Respondent notified the Commissioner in writing of its intent to
15 surrender its escrow agent license.

16 On May 15, 2012, the Commissioner sent a certified letter to Respondent, which was
17 received. The letter notified Respondent that as a condition of license surrender pursuant to
18 Financial Code section 17600(b), the licensee is required to engage a certified public accountant to
19 conduct a closing audit of the licensee’s records and report findings of compliance with the Escrow
20 Law within 105 days from the date of application to surrender the license. This period expired
21 August, 2012.

22 On September 6, 2012, the Commissioner sent another certified letter to Respondent, which
23 was received. This letter advised Respondent that the Closing Audit Report had not been received.
24 Pursuant to Financial Code section 17602.5, Respondent was given an additional ten (10) days to
25 comply. The Commissioner advised Respondent that failure to comply within ten days would
26 result in a referral for revocation of its license.

27 The additional ten day period expired September 17, 2012 without any response from
28 Respondent.

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To date, Respondent has failed to file its Closing Audit Report.

III.

Pursuant to Financial Code section 17202(a), all licensees under the Escrow Law are required to maintain a surety bond at a minimum of at least \$25,000, depending on the licensee's average annual trust fund obligations. Respondent maintained a \$50,000 surety bond with Hartford Fire Insurance Company. On or about July 9, 2012, the Commissioner was notified in writing that the surety bond for Aspen Express would be cancelled effective August 20, 2012. To date, Respondent has failed to provide evidence of a bond in effect as required by Financial Code section 17202(a).

IV.

Financial Code section 17202(a) provides in pertinent part:

At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a bond satisfactory to the commissioner in the amount of at least twenty-five thousand dollars (\$25,000). Thereafter, a licensee shall maintain a bond satisfactory to the commissioner . . .

Financial Code section 17600(b) provides in pertinent part:

A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall notify the commissioner in writing and, at that time, tender the license and all other indicia of licensure to the commissioner. Within 105 days of the written notice to the commissioner, the licensee shall submit to the commissioner, at its own expense, a closing audit report as of the date the license is tendered to the commissioner for surrender, or for another period as the commissioner may specify, to be performed by an independent certified public accountant . . . A license is not surrendered until the commissioner has reviewed and accepted the closing audit report, a determination has been made by the commissioner that acceptance of the surrender is in the public interest, and tender of the license is accepted in writing by the commissioner.

Financial Code section 17602.5 provides in pertinent part:

If any licensed escrow agent fails to make any reports required by law or by the commissioner within ten (10) days from the date designated for the making of the reports, or within any extension of time granted

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by the commissioner . . . such failure shall constitute grounds for the suspension or revocation of the license held by such escrow agent.

Financial Code section 17608 provides in pertinent part:

The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:

(a) The licensee has failed to maintain in effect a bond required under the provisions of this division.

(b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division

V.

Complainant finds that, by reason of the foregoing, Aspen Express has violated Financial Code sections 17202, 17600 and 17602.5, and it is in the best interests of the public to revoke the escrow agent’s license of Respondent pursuant to Financial Code section 17608.

WHEREFORE, IT IS PRAYED that the California escrow agent’s license of Respondent Aspen Express Escrow Services, Inc. be revoked.

DATED: January 31, 2013
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By _____
Jennifer A. Granat
Senior Corporations Counsel
Enforcement Division

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 JENNIFER A. GRANAT (CA BAR NO. 199868)
Corporations Counsel
5 Department of Corporations
320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
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7 Attorneys for Complainant

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

11 In the Matter of the Order of THE) File No.: 963-1784
12 CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ORDER IMPOSING PENALTIES PURSUANT
) TO CALIFORNIA FINANCIAL CODE
14 Complainant,) SECTION 17408
)
15 v.)
)
16 ASPEN EXPRESS ESCROW SERVICES,)
17 INC.,)
)
18 Respondent.)

19
20 TO: ASPEN EXPRESS ESCROW SERVICES, INC.
2605 Camino Del Rio South, Ste. 302
21 San Diego, CA 92108

22 THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA FINDS

23 THAT:

24 Pursuant to California Financial Code section 17406, Aspen Express Escrow Services, Inc.
25 (“Respondent”) was required to submit its annual audit report containing audited financial
26 statements (“Audit Report”) for the fiscal year ended December 31, 2006 to the California
27 Corporations Commissioner (“Commissioner”) on or before April 16, 2007.
28

1 On or about November 14, 2006, the Commissioner notified Respondent in writing of the
2 due date of the Audit Report and the penalties for failure to file the Audit Report by such date.

3 On or about May 9, 2007, the Commissioner again notified Respondent in writing of the due
4 date of the Audit Report, and the penalties imposed for late filing of the Audit Report.

5 On June 5, 2007, Respondent filed its audit report with the Commissioner, forty-nine (49)
6 days late.

7
8 Financial Code section 17408, subdivisions (b) - (e) provide as follows:

9 (b) The commissioner may impose, by order, a penalty on any
10 person who fails, within the time specified in any written demand of
11 the commissioner, (1) to make and file with the commissioner . . . The
12 amount of the penalty may not exceed one hundred dollars (\$100)
13 for each day for the first five days the report or information is
14 overdue, and thereafter may not exceed five hundred dollars (\$500)
for each day the report or information is overdue.

15 (c) If, after an order has been made under subdivision (b), a
16 request for hearing is filed in writing within 30 days of the date of
17 service of the order by the person to whom the order was directed, a
18 hearing shall be held in accordance with the Administrative
19 Procedure Act, Chapter 5 (commencing with Section 11500) of Part
1 of Division 3 of Title 2 of the Government Code, and the
commissioner shall have all the powers granted under that chapter.

20 (d) If the person fails to file a written request for a hearing
21 within 30 days of the date of service of the order, the order imposing
22 the penalty shall be deemed a final order of the commissioner, and
the penalty shall be paid within five business days.

23 (e) If a hearing is requested, the penalty shall be paid within five
24 business days after the effective date of any decision in the case
ordering payment to be made.

25 NOW, THEREFORE, the Commissioner having found that Aspen Express Escrow
26 Services, Inc. failed to timely file its Audit Report for fiscal year ended December 31, 2006 as
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required by Financial Code section 17406, it is hereby ordered pursuant to Financial Code section 17408 that Aspen Express Escrow Services, Inc. pay the Commissioner the sum of \$4,900.00.

Dated: November 2, 2007
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel
Enforcement Division

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California Corporations Commissioner
2 ALAN S. WEINGER
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13) ACCUSATION
Complainant,)
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15 v.)
16 ASPEN EXPRESS ESCROW SERVICES,)
INC.,)
17)
18 Respondent.)
19 _____)

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

22 I.

23 Respondent Aspen Express Escrow Services, Inc. (“Respondent” or “Aspen Express”) is an
24 escrow agent licensed by the California Corporations Commissioner (“Commissioner” or
25 “Complainant”) pursuant to the Escrow Law of the State of California, California Financial Code
26 Section 17000 *et seq.*

27 II.

28 Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to
file an annual audit report containing audited financial statements (“Audit Report”) within one

1 hundred five (105) days after the close of their fiscal year. Respondent’s fiscal year-end is
2 December 31. Accordingly, Respondent was required to file its Audit Report for the fiscal year
3 ended December 31, 2008 on or before April 15, 2009.

4 On or about November 17, 2008, the Commissioner notified Aspen Express in writing of the
5 due date of its Audit Report and the penalties if the report was filed late. Aspen Express failed to
6 file its Audit Report by April 15, 2009.

7 On or about June 26, 2009, the Commissioner again notified Aspen Express in writing that
8 the Audit Report had not yet been received. This notification further informed Aspen Express that
9 the failure to file the Audit Report may result in an assessment of penalties, the immediate
10 examination of their books and records, and subject their escrow agent’s license to suspension and/or
11 revocation.

12 To date, Respondent has failed to file its Audit Report.

13 In 2007, Aspen Express was forty-nine (49) days late in filing its Audit Report for fiscal year
14 ended December 31, 2006. On or about November 2, 2007, the Commissioner imposed penalties of
15 \$4,900 against Aspen Express for its failure to timely file its 2006 Audit Report, pursuant to
16 Financial Code section 17408.

17 **III.**

18 Financial Code section 17406, subdivision (a) provides:

19 (a) Each licensee shall submit to the commissioner, at such
20 licensee's own expense, an audit report containing audited financial
21 statements covering the calendar year or, if such licensee has an
22 established fiscal year, then for such fiscal year, within 105 days
23 after the close of each such calendar or fiscal year. At such time,
each licensee shall also file such additional relevant information as
the commissioner may require.

24 Financial Code section 17602.5 provides in pertinent part:

25 If any licensed escrow agent fails to make any reports required by
26 law or by the commissioner within ten (10) days from the date
27 designated for the making of the reports, or within any extension of
28 time granted by the commissioner . . . such failure shall constitute
grounds for the suspension or revocation of the license held by
such escrow agent.

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Financial Code section 17608 provides in pertinent part:

The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:

...
(b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

IV.

Complainant finds that, by reason of the foregoing, Aspen Express has violated Financial Code section 17406, which constitutes grounds for the suspension of its escrow agent’s license.

WHEREFORE, IT IS PRAYED that the escrow agent’s license of Aspen Express Escrow Services, Inc. be suspended until the Audit Report is filed or for a period of thirty (30) days, whichever is longer.

DATED: November 5, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Jennifer A. Granat
Senior Corporations Counsel
Enforcement Division

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
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3 JENNIFER A. GRANAT (CA BAR NO. 199868)
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17 ASPEN EXPRESS ESCROW SERVICES,)
INC.,)
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Respondent.)

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20 TO: ASPEN EXPRESS ESCROW SERVICES, INC.
21 2605 Camino Del Rio South, Ste. 302
San Diego, CA 92108

22 THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA FINDS

23 THAT:

24 Pursuant to California Financial Code section 17406, Aspen Express Escrow Services, Inc.
25 (“Respondent”) was required to submit its annual audit report containing audited financial
26 statements (“Audit Report”) for the fiscal year ended December 31, 2008 to the California
27 Corporations Commissioner (“Commissioner”) on or before April 15, 2009.
28

1 On or about November 17, 2008, the Commissioner notified Respondent in writing of the
2 due date of the Audit Report and the penalties for failure to file the Audit Report by such date.

3 On or about June 26, 2009, the Commissioner again notified Respondent in writing of the
4 due date of the Audit Report, demanding that Respondent file the Audit Report and stating the
5 penalties imposed for late filing of the Audit Report.
6

7 To date, Respondent has failed to file its audit report with the Commissioner.

8 Financial Code section 17408, subdivisions (b) - (e) provide as follows:

9 (b) The commissioner may impose, by order, a penalty on any
10 person who fails, within the time specified in any written demand of
11 the commissioner, (1) to make and file with the commissioner . . . The
12 amount of the penalty may not exceed one hundred dollars (\$100)
13 for each day for the first five days the report or information is
14 overdue, and thereafter may not exceed five hundred dollars (\$500)
for each day the report or information is overdue.

15 (c) If, after an order has been made under subdivision (b), a
16 request for hearing is filed in writing within 30 days of the date of
17 service of the order by the person to whom the order was directed, a
18 hearing shall be held in accordance with the Administrative
19 Procedure Act, Chapter 5 (commencing with Section 11500) of Part
1 of Division 3 of Title 2 of the Government Code, and the
commissioner shall have all the powers granted under that chapter.

20 (d) If the person fails to file a written request for a hearing
21 within 30 days of the date of service of the order, the order imposing
22 the penalty shall be deemed a final order of the commissioner, and
the penalty shall be paid within five business days.

23 (e) If a hearing is requested, the penalty shall be paid within five
24 business days after the effective date of any decision in the case
ordering payment to be made.

25 NOW, THEREFORE, the Commissioner having found that Aspen Express Escrow
26 Services, Inc. failed to timely file its Audit Report for fiscal year ended December 31, 2008 as
27 required by Financial Code section 17406, it is hereby ordered pursuant to Financial Code section
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17408 that Aspen Express Escrow Services, Inc. pay the Commissioner the sum of \$12,800, plus an additional \$100.00 for each day after November 5, 2009 that the Audit Report is not filed.

Dated: November 5, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner
Enforcement Division