

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  
7

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

10  
11 In the Matter of THE CALIFORNIA ) File No.: 963-2352  
CORPORATIONS COMMISSIONER, )  
12 )  
13 Complainant, ) NOTICE AND SUMMARY OF FINDINGS  
14 vs. ) PURSUANT TO CALIFORNIA FINANCIAL  
A.C.T. ESCROW, INC., ) CODE SECTION 17621  
15 )  
16 Respondent. )  
17 )  
18 )

19 TO: A.C.T. ESCROW, INC.  
20 42231 6<sup>th</sup> Street W., Suite 205  
Lancaster, California 93534  
21  
22 2155 East Garvey Avenue North, Suite B-10  
West Covina, California 91791  
23  
24 EASTWEST BANK  
1900 Avenue of the Stars  
Los Angeles, California 90067  
25

26 Please take notice that the California Corporations Commissioner finds:

- 27 1. On or about November 16, 2011, the Commissioner received information from the  
28 president of ACT that its West Covina escrow manager had admitted embezzling \$92,000.00 in trust  
funds in violation of Financial Code section 17414(a)(1). Based upon such information, on or about

1 November 17, 2011, the Commissioner, by and through his staff, commenced a special examination  
2 of the books and records of ACT.

3 3. The special examination, which has yet to be completed, revealed that as of  
4 November 16, 2011, the main office of ACT, located at 42231 6<sup>th</sup> Street W, Suite 205, Lancaster,  
5 California 93534, had a trust account shortage of at least \$269,504.46.

6 4. The special examination further revealed that the books and records had not been  
7 maintained since in or about February 2011 at the West Covina branch in violation of Financial  
8 Code section 17404 and California Code of Regulations, title 10, section 1732.2. As a result of  
9 ACT's failure to maintain books and records, the Commissioner has been unable to determine the  
10 exact extent of the alleged trust shortage at the West Covina branch, but it appears to be around  
11 \$100,000.00.

12 5. On or about November 16, 2011, the Commissioner made demand upon ACT to  
13 immediately open a new trust account at both offices in which all further escrow funds received by  
14 ACT would be deposited so that new escrow trust funds could remain separate from the trust funds  
15 affected by the shortage. On or about November 18, 2011, ACT opened a new trust account for the  
16 West Covina branch. However, as of November 22, 2011, ACT had yet to open the new trust  
17 account for Lancaster as previously demanded, so a further demand was made upon ACT. The  
18 Department has been informed that the new trust account for the main office was finally opened on  
19 or about November 22, 2011. However, the Department has yet to receive written evidence that the  
20 new trust accounts have been opened as demanded.

21 6. On or about November 21, 2011, the Commissioner made written demand upon ACT  
22 to cure the \$269,504.46 trust account shortage at the main office no later than November 22, 2011.  
23 ACT has failed to cure the trust account shortage at the main office except that ACT has stated that it  
24 deposited \$25,000.00 into the main office trust account from funds it obtained from its former  
25 branch manager along with a further \$5,000.00 it obtained from the person the former manager was  
26 diverting the embezzled escrow funds through. The evidence of such deposits submitted by ACT to  
27 the Department of Corporations ("Department") to date indicates that \$25,000.00 in funds alleged to  
28 have been obtained from the former manager was deposited into the general account of the West

1 Covina branch and then immediately transferred to the main office trust account.

2 6. Based on the above, ACT currently has trust account shortages of at least  
3 \$239,504.46, but possibly as much as \$369,504.46. The Commissioner has made written demand  
4 upon ACT to cure at least the shortage in the main office trust account no later than November 22,  
5 2011. ACT has failed to cure the shortage and continues in its failure to cure the shortage.

6 7. California Financial Code section 17621 provides in pertinent part:

7 Whenever it appears to the commissioner that any escrow agent subject  
8 to this division:

9 ...

10 (b) Is conducting escrow business in an unsafe and unauthorized manner;

11 (c) Has violated its charter or any law of the State of California;

12 ...

13 the commissioner shall dispatch a written notice and summary of findings,  
14 as referred to in Section 17415, to the principal officer of the escrow agent  
15 involved or to its manager of record; and such escrow agent shall be afforded  
16 a reasonable opportunity to comply or otherwise effect such remedy as the  
17 commissioner may deem acceptable. However, should the escrow agent so  
18 notified fail to comply within five days of receipt of the notice, or as soon as  
19 it appears to the commissioner that no compliance is possible, or in the event  
20 prompt delivery of the prescribed written notice is impossible, the commissioner  
21 may forthwith take possession of the property and business of such escrow agent  
22 and retain possession until such escrow agent resumes business or its affairs be  
23 finally liquidated as provided in this chapter. The escrow agent, with the consent  
24 of the commissioner, may resume business upon such conditions as the  
25 commissioner may prescribe.

26 8. Based upon the foregoing, the Commissioner finds that A.C.T. Escrow, Inc. has  
27 violated Financial Code sections 17404 and 17414(a)(1) and California Code of Regulations, title  
28 10, sections 1732.2, 1738, 1738.1 and 1738.2, and is conducting escrow business in such an unsafe  
and unauthorized manner, that no compliance is possible.

Dated: December 6, 2011  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

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