

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 4th Street, Ste. 750  
5 Los Angeles, California 90013-2344  
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6 Attorneys for Complainant

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, ) ORDER TO DISCONTINUE ESCROW  
14 vs. ) ACTIVITIES PURSUANT TO FINANCIAL  
15 A.C.T. ESCROW, INC., ) CODE SECTION 17415  
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 2155 East Garvey Avenue North, Suite B-10  
22 West Covina, California 91791  
23 EASTWEST BANK  
24 1900 Avenue of the Stars  
Los Angeles, California 90067

25 THE CALIFORNIA CORPORATIONS COMMISSIONER FINDS THAT:

- 26 1. A.C.T. Escrow, Inc. (“ACT”) is an escrow agent licensed by the California  
27 Corporations Commissioner (“Commissioner”) pursuant to the provisions of the Escrow Law of the  
28 State of California (Financial Code section 17000 et seq.). ACT has its principal place of business

1 located at 42231 N. 6<sup>th</sup> Street W., Suite 205, Lancaster, California 93534. ACT also has a branch  
2 office located at 2155 East Garvey Avenue North, Suite B-10, West Covina, California 91791.

3 2. On or about November 16, 2011, the Commissioner received information from the  
4 president of ACT that its West Covina escrow manager had admitted embezzling \$92,000.00 in trust  
5 funds. Based upon such information, on or about November 17, 2011, the Commissioner, by and  
6 through his staff, commenced a special examination of the books and records of ACT.

7 3. The special examination, which has yet to be completed, disclosed that as of  
8 November 16, 2011, the main office of ACT had a trust account shortage of at least \$269,504.46.  
9 The special examination disclosed, with respect to the West Covina branch, that the books and  
10 records had not been maintained since in or about February 2011 in violation of Financial Code  
11 section 17404 and California Code of Regulations, title 10, section 1732.2. As a result, the  
12 Commissioner has been unable to determine the exact extent of the alleged trust shortage at the West  
13 Covina branch to date, but it appears to be in around \$100,000.00.

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

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

1 the Department of Corporations (“Department”) to date indicates that \$25,000.00 in funds alleged to  
2 have been obtained from the former manager was deposited into the general account of the West  
3 Covina branch and then immediately transferred to the main office trust account.

4 6. Based on the above, ACT currently has trust account shortages of at least  
5 \$239,504.46, but possibly as much as \$369,504.46. The Commissioner has made written demand  
6 upon ACT to at least cure the shortage in the main office trust account no later than November 22,  
7 2011. ACT has failed to cure the shortage and continues in its failure to cure the shortage.

8 Based upon the foregoing, ACT is conducting escrow business in such an unsafe and  
9 injurious manner as to render further operations hazardous to the public or to customers.

10 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING  
11 THEREFORE, it is hereby ORDERED, under the provisions of section 17415 of the Financial Code,  
12 that A.C.T. Escrow, Inc. and any person having in his or her possession any escrow funds or trust  
13 funds immediately discontinue the receipt or disbursement of any escrow or joint control money,  
14 documents or other property in its possession, custody or control.

15 This order is to remain in full force and effect until further order of the Commissioner.

16 Section 17415 of the Financial Code provides as follows:

17 (a) If the commissioner, as a result of any examination or from any  
18 report made to him or her, shall find that any person subject to this  
19 division is in an insolvent condition, is conducting escrow business in  
20 such an unsafe or injurious manner as to render further operations  
21 hazardous to the public or to customers, has failed to comply with  
22 the provisions of Section 17212.1 or 17414.1, has permitted its tangible  
23 net worth to be lower than the minimum required by law, has failed to  
24 maintain its liquid assets in excess of current liabilities as set forth in  
25 Section 17210, or has failed to comply with the bonding requirements  
26 of Chapter 2 (commencing with Section 17200) of this division, the  
27 commissioner may, by an order addressed to and served by registered  
28 or certified mail or personal service on such person and on any other  
person having in his or her possession or control any escrowed funds,  
trust funds or other property deposited in escrow with said person,  
direct discontinuance of the disbursement of trust funds by the parties  
or any of them, the receipt of trust funds, the delivery or recording of  
documents received in escrow, or other business operations. No person  
having in his or her possession any of these funds or documents shall be  
liable for failure to comply with the order unless he or she has received  
written notice of the order. Subject to subdivision (b), the order shall remain

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in effect until set aside by the commissioner in whole or in part, the person is the subject of an order for relief in bankruptcy, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing of service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right for a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

Dated: December 6, 2011  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Alan S. Weinger  
Deputy Commissioner