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California Corporations Commissioner
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9
10 BEFORE THE DEPARTMENT OF CORPORATIONS
11 OF THE STATE OF CALIFORNIA

12 In the Matter of THE CALIFORNIA) File No.: 963-2273
CORPORATIONS COMMISSIONER,)
13) 1) ACCUSATION; and
Complainant,) 2) ORDER IMPOSING PENALTIES
14)
15 vs.)
16 AMERISOURCE ESCROW, INC.,)
Respondent.)
17)
18)

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

21 **I.**

22 AMERISOURCE ESCROW, INC. (“Respondent” or “Amerisource”) is an escrow agent
23 licensed by the California Corporations Commissioner (“Commissioner” or “Complainant”) pursuant
24 to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.).

25 **II.**

26 Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to
27 file an annual audit report containing audited financial statements (“Annual Report”) within one
28 hundred and five (105) days after the close of their fiscal year. Amerisource’s fiscal year end is July

1 31, 2009. Accordingly, Respondent was required to file its Annual Report on or before November
2 15, 2009.

3 On or about June 8, 2009, Complainant notified Respondent in writing that its Annual Report
4 was due on or before November 15, 2009. Respondent failed to file the Annual Report by
5 November 15, 2009.

6 On or about December 21, 2009, a follow up letter was sent to Respondent concerning its
7 failure to file the Annual Report. Respondent was notified in the letter that failure to file the Annual
8 Report could result in assessment of penalties, a special examination and/or administrative action.
9 Respondent has yet to file the Annual Report as required by Financial Code section 17406.

10 In addition, Respondent has been deficient in meeting the net worth requirements of
11 Financial Code section 17210. Respondent's CPA expressed a going concern issue in the annual
12 financial statement for fiscal year ending July 31, 2008.

13 On or about January 27, 2010, Complainant notified Respondent in a letter that the net worth
14 requirements and the going concern issue needed to be addressed in accordance with Financial Code
15 sections 17406 and 17210. In this letter, Complainant stated that Respondent would be fined the
16 penalty amount allowed under Financial Code section 17408 if Respondent did not remedy the going
17 concern and net worth issues with Complainant within fifteen (15) days of the date of the letter. To
18 date, Respondent has not provided evidence of such remedy.

19 **III.**

20 Financial Code section 17602.5 provides in pertinent part as follows:

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

25 Financial Code section 17608 provides in pertinent part:

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

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

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division.

Financial Code section 17408 provides in pertinent part:

(b) The commissioner may, impose, by order, a penalty on any person who fails, within the time specified in any written demand of the commissioner, (1) to make and file with the commissioner any report required by law or requested by the commissioner, or (2) to furnish any material information required by the commissioner to be included in the report. The amount of the penalty may not exceed one hundred dollars (\$100) for each day for the first five days the report or information is overdue and, thereafter, may not exceed five hundred dollars (\$500) for each day the report or information is overdue.

(c) If, after an order has been made under subdivision (b), a request for hearing is filed in writing within 30 days of the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with the Administrative 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.

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

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

IV.

Complainant finds that, by reason of the foregoing, Amerisource has violated Financial Code sections 17406 and 17210, either of which is grounds for penalties under Financial Code section 17408. Under Financial Code section 17408(b), penalties begin to accrue within the time specified in the Commissioner’s demand. The Commissioner issued a letter on December 21, 2009 that demanded the financial reports be filed within ten (10) days of the date of the letter. Consequently, penalties begin accruing on January 1, 2010. Penalties for the first five days after the demand is not met are fifty dollars (\$50) per day. Penalties for each day thereafter are two hundred and fifty dollars (\$250). To date, the report has not been filed by Respondent.

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ORDER IMPOSING PENALTIES

PURSUANT TO FINANCIAL CODE SECTION 17408

NOW, THEREFORE, AMERISOURCE ESCROW, INC. is hereby ordered to pay the Commissioner a total of twenty-nine thousand seven hundred and fifty dollars (\$29,750), pursuant to Financial Code section 17408.

V.

Complainant finds that, by reason of the foregoing, Amerisource has violated Financial Code section 17406, which constitutes grounds for the suspension of its escrow agent’s license under Financial Code section 17602.5.

WHEREFORE, IT IS PRAYED that the AMERISOURCE ESCROW, INC.’s escrow agent’s license be suspended, pursuant to Financial Code section 17608, until such time as it files its Annual Report for the fiscal year end July 31, 2009 or for a period of one month, whichever period is greater.

Dated: May 3, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner