

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

25 Financial Code section 17608 provides in pertinent part:

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

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

4 Financial Code section 17408 provides in pertinent part:

5 (b) The commissioner may, impose, by order, a penalty on any  
6 person who fails, within the time specified in any written demand of  
7 the commissioner, (1) to make and file with the commissioner any  
8 report required by law or requested by the commissioner, or (2) to  
9 furnish any material information required by the commissioner to be  
10 included in the report. The amount of the penalty may not exceed one  
11 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.

12 (c) If, after an order has been made under subdivision (b), a  
13 request for hearing is filed in writing within 30 days of the date of  
14 service of the order by the person to whom the order was directed, a  
15 hearing shall be held in accordance with the Administrative  
16 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.

17 (d) If the person fails to file a written request for a hearing within  
18 30 days of the date of service of the order, the order imposing the  
19 penalty shall be deemed a final order of the commissioner, and the  
penalty shall be paid within five business days.

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

22 **IV.**

23 The Commissioner issued an Accusation to suspend Respondent's license and an Order  
24 Imposing Penalties against Respondent on May 3, 2010. Respondent was given the opportunity to  
25 request a hearing on the merits of the Accusation and Order Imposing Penalties but did not do so.  
26 The Commissioner issued a Suspension Order against Respondent on July 2, 2010, which suspended  
27 Respondent's escrow agent's license until the penalties ordered were paid and the required reports  
28 were filed.

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Respondent has not filed the required financial reports, in violation of Financial Code section 17406, nor has it provided evidence of the net worth required under section 17210. In addition, Respondent has not paid the penalties ordered by the Commissioner, in violation of section 17408.

**V.**

Complainant finds that, by reason of the foregoing, Amerisource has violated Financial Code section 17406 and 17408, which constitutes grounds for the revocation 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 revoked pursuant to Financial Code section 17608.

Dated: August 24, 2010  
Sacramento, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Joanne Ross  
Corporations Counsel