

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
Telephone: (213) 576-7604 Fax: (213) 576-7181
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.: 963-1201
CORPORATIONS COMMISSIONER,)
12)
13 Complainant,) NOTICE AND SUMMARY OF FINDINGS
14 vs.) PURSUANT TO FINANCIAL CODE 17621
15 APPLE ESCROW,)
16 Respondent.)
17)
18)

19 TO: APPLE ESCROW
20 13585 Whittier Blvd., Suite 103
Whittier, California 90605
21
22 COMERICA BANK
23 2321 Rosecrans Avenue, Suite 5000
El Segundo, California 90245-4537

24 Please take notice that the California Corporations Commissioner, finds:

25 1. Apple Escrow, a California corporation ("Apple Escrow" or "Respondent") is an escrow
26 agent holding a valid and unrevoked license issued by the California Corporations Commissioner
27 ("Commissioner"), pursuant to the Escrow Law of the State of California (§ 17000 et seq. of the
28 California Financial Code).

1 2. On or about March 10, 2010, the Commissioner received information that a check
2 written against the trust account of Apple Escrow had been returned non-sufficient funds. Based
3 upon such information, the Commissioner, by and through his staff, commenced a special
4 examination of the books and records of Apple Escrow on or about March 11, 2010.

5 3. The special examination disclosed that commencing in or about April 2008 and
6 continuing through at least March 9, 2010, Apple Escrow made at least sixteen (16) disbursements
7 totaling at least \$47,707.32 to itself in the form of unauthorized fees or other unauthorized
8 disbursements in violation of Financial Code section 17414(a)(1) and California Code of
9 Regulations, title 10, sections 1738 and 1738.2.

10 4. The unauthorized disbursements described in paragraph 3 above have caused a
11 shortage of at least \$47,707.32 to exist in the trust account of Apple Escrow in violation of
12 California Code of Regulations, title 10, section 1738.1.

13 5. The special examination further revealed that Apple Escrow had failed to perform
14 monthly bank reconciliations on the trust account since May 31, 2008 in violation of Financial Code
15 section 17404 and California Code of Regulations, title 10, section 1732.2. On or about March 11,
16 2010, the Commissioner demanded that Apple Escrow provide a trust account bank reconciliation
17 for the period ended February 28, 2010, however, Apple Escrow has failed to provide the bank
18 reconciliation. A trust account reconciliation for the period ended February 28, 2010 prepared by
19 the Commissioner based upon Apple Escrow’s month-end reports and trust bank statements
20 disclosed a negative adjusted balance of \$67,385.36 in the trust account. However, the
21 Commissioner has been unable to review specific documents relating to the adjusting items, and is
22 therefore unable to ascertain the exact amount of the trust account shortage.

23 6. The Commissioner has made several demands on Apple Escrow to cure the trust
24 account shortage described in paragraph 4 above. However, Apple Escrow has failed to cure the
25 shortage and continues in its failure to cure the shortage.

26 7. On or about April 20, 2010, the Commissioner learned that Comerica Bank had
27 determined to sever its relationship with Apple Escrow and on or about April 16, 2010 issued
28 cashier’s check number 200003744 in the amount of \$248,369.12 to Apple Escrow and had the

1 cashiers' check delivered to Apple on April 16, 2010 via messenger. As of April 20, 2010, at or
2 about 11:00 a.m., the cashier's check had not been presented to Comerica bank for payment.

3 8. California Financial Code section 17621 provides in pertinent part:

4 Whenever it appears to the Commissioner that any escrow agent subject
5 to this division:

6 ...

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

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

9 ...

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

23 9. Based upon the foregoing, the Commissioner finds that Apple Escrow has violated
24 Financial Code sections 17404 and 17414 and California Code of Regulations, title 10, sections
25 1732.2, 1738, 1738.1 and 1738.2 and is conducting escrow business in an unsafe and unauthorized
26 manner, that no compliance is possible.

27 10. Pursuant to Financial Code sections 17621 and 17630, it is also necessary that a
28 conservator be appointed as specified in the accompanying Order Appointing Peter A. Davidson as
Conservator Pursuant to Financial Code section 17630.

This Order is effective as of the date hereof.

Dated: April 20, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner