

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
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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.: 963-1201
CORPORATIONS COMMISSIONER,)
12)
13 Complainant,) ORDER TO DISCONTINUE ESCROW
) ACTIVITIES PURSUANT TO CALIFORNIA
14 vs.) FINANCIAL CODE SECTION 17415
15)
APPLE ESCROW,)
16)
17 Respondents.)
18)

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

24 THE CALIFORNIA CORPORATIONS COMMISSIONER FINDS THAT:

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

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

6 3. The unauthorized disbursements described in paragraph 2 above have caused a
7 shortage of at least \$47,707.32 to exist in the trust account of Apple Escrow in violation of
8 California Code of Regulations, title 10, section 1738.1.

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

19 5. The Commissioner has demanded that Apple Escrow cure the trust account shortage
20 described in paragraph 3 above, however, Apple Escrow has failed to cure the shortage and
21 continues in its failure to cure the shortage.

22 6. On or about April 20, 2010, the Commissioner learned that Comerica Bank had
23 determined to sever its relationship with Apple Escrow and on or about April 16, 2010 issued
24 cashiers' check number 200003744 in the amount of \$248,369.12 to Apple Escrow and had the
25 cashiers' check delivered to Apple on April 16, 2010 via messenger. As of April 20, 2010 at or
26 about 11:00 a.m., the cashiers' check had not been presented to Comerica bank for payment.

27 Based upon the foregoing, Apple Escrow is conducting escrow business in such an unsafe
28 and injurious manner as to render further operations hazardous to the public or to customers.

1 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
2 THEREFORE, it is hereby ORDERED, under the provisions of Financial Code section 17415, that
3 Apple Escrow and any person having in his or her possession any escrow funds or trust funds,
4 including, but not limited to cashier’s check number 200003744 issued by Comerica Bank from the
5 Apple Escrow trust account number dated April 16, 2010 in the amount of \$248,369.12 payable to
6 Apple Escrow, discontinue immediately the receipt or disbursement of any escrow or joint control
7 money, documents or other property in its possession, custody or control.

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

9 California Financial Code section 17415 provides as follows:

10 (a) If the commissioner, as a result of any examination or from any
11 report made to him or her, shall find that any person subject to this
12 division is in an insolvent condition, is conducting escrow business in
13 such an unsafe or injurious manner as to render further operations
14 hazardous to the public or to customers, has failed to comply with
15 the provisions of Section 17212.1 or 17414.1, has permitted its tangible
16 net worth to be lower than the minimum required by law, has failed to
17 maintain its liquid assets in excess of current liabilities as set forth in
18 Section 17210, or has failed to comply with the bonding requirements
19 of Chapter 2 (commencing with Section 17200) of this division, the
20 commissioner may, by an order addressed to and served by registered
21 or certified mail or personal service on such person and on any other
22 person having in his or her possession or control any escrowed funds,
23 trust funds or other property deposited in escrow with said person,
24 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
in effect until set aside by the commissioner in whole or in part, the person
has been adjudged bankrupt, or pursuant to Chapter 6 (commencing with
Section 17621) of this division the commissioner has assumed possession
of the escrow agent.

25 (b) Within 15 days from the date of an order pursuant to subdivision (a),
26 the person may request a hearing under the Administrative Procedure Act,
27 Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the
28 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

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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).

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