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7	BEFORE THE DEPARTMENT OF CORPORATIONS		
8	OF THE STATE OF CALIFORNIA		
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10	In the Matter of the Accusation THE Output Output Discrepancy Discrepancy Output Discrepancy Discre		
11	CALIFORNIA CORPORATIONS) COMMISSIONER,) ACCUSATION		
12	Complainant,		
13) vs.)		
14)		
15	CRESTA VERDE ESCROW, INC., SHIRLEY) LEWIS, and KIMBERLY M. DEBERG,)		
16	Respondents.		
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18	The Complainant is informed and believes, and based upon such information and belief,		
19	alleges and charges Respondents as follows:		
20	I		
21	Respondent Cresta Verde Escrow, Inc. ("Crest Verde") is an escrow agent licensed by the		
22	California Corporations Commissioner ("Commissioner") pursuant to the California Escrow Law		
23	(California Financial Code § 17000 et seq.) ("Escrow Law"). Cresta Verde has its principal place of		
24	business located at 27500 Marguerite Parkway, Suite 5, Mission Viejo, California 92692. Cresta		
25	Verde also has a branch location at 28780 Front Street, Suite B4, Temecula, California 92390.		
26	Respondent Shirley Lewis ("Lewis") is, and was at all times relevant herein, the president		
27	and sole shareholder of Cresta Verde.		
28			

Respondent Kimberly M. DeBerg ("DeBerg") is, and was at all times relevant herein, the daughter of Lewis.

II

On or about March 17, 1992, DeBerg was terminated from her position as an escrow officer with Cresta Verde by Lewis. Thereafter, on or about September 15, 1992 and December 22, 1992, DeBerg was convicted of six counts of Penal Code section 476A (fraudulently passing bad checks)(hereinafter referred to as the "September 15, 1992 conviction") and one count of Penal Code section 470C (forgery), respectively. Pursuant to Financial Code section 17414.1(a), DeBerg was automatically prohibited from serving in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, in the State of California for a period ten years from the date of the conviction or until the convictions were expunged.

On or about November 8, 1995, DeBerg had her forgery conviction expunged. However, the September 15, 1992 conviction remained. As such, DeBerg was still under an automatic prohibition from working in the independent escrow industry. On or about July 31, 2000, DeBerg had her September 15, 1992 conviction expunged. This expungement finally removed the automatic prohibition provided for in Financial Code section 17414.1(a), but the Commissioner still had the option of barring DeBerg under Financial Code section 17423 notwithstanding.

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On or about April 3, 2012, the Commissioner commenced a special examination of Cresta Verde ("special examination"). The special examination was initiated after a regulatory examination commenced in April 2011 disclosed that DeBerg was working at Cresta Verde in violation of Financial Code sections 17414.1(d) and 17419. Pursuant to Financial Code sections 17414.1(d) and 17419, a completed statement of identity and employment application ("SIEA") on or before the first day of employment along with fingerprints within ten days of employment are required to be submitted for all persons seeking employment with an escrow agent or potential escrow agent, except those required to file an Statement of Identity and Questionnaire ("SIQ"), i.e., officers, directors, shareholders and managers.

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During the 2011 regulatory examination, DeBerg was discovered working at Cresta Verde. 1 2 The Summary of Personnel provided by DeBerg on behalf of Cresta Verde stated that DeBerg was 3 an escrow officer and had been working at Cresta Verde since January 2010. Previously on or about 4 February 1, 2006, Lewis had filed a Notice of Termination regarding DeBerg. The notice of 5 termination resulted after Cresta Verde had hired DeBerg back in November 2005 and Escrow 6 Agent's Fidelity Corporation ("EAFC") denied issuance of a fidelity certificate to DeBerg. Cresta 7 Verde had submitted a SIEA with regard to this employment of DeBerg. No Summary of Personnel 8 filed by Cresta Verde subsequent to the February 1, 2006 Notice of Termination disclosed DeBerg. 9 The 2012 special examination, as more fully described below, revealed that DeBerg was 10 employed by Cresta Verde in violation of Financial Code sections 17414.1(d) and 17419, and had 11 been employed by Cresta Verde in violation of the Escrow Law, on and off, if not continuously,

The special examination specifically found the following:

sections 17210.2, 17348 and/or 17406(a).

1. During at least the months of March, April, May, July, August, September, October and November 2007, DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from the general account instead of the payroll account, which checks were all signed by Lewis. The checks averaged \$6,884.00 for each month checks were issued.

since at least March 2007. The special examination further revealed that Cresta Verde and Lewis

had been filing false Summaries of Personnel with the Commissioner in violation of Financial Code

- 2. DeBerg was processing escrows for Cresta Verde from January 2007 through at least September 2007.
- 3. On or about May 23, 2007, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 4. On or about September 5, 2007, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 5. During at least the months of March, April, May, June, July, and August 2008, DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from the general account instead of the payroll account, which checks were all signed by

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Lewis. The checks averaged \$5,822.49 for each month checks were issued.

- 6. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2008.
- 7. On or about January 18, 2008, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 8. On or about June 4, 2008, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 9. During at least the months of April, May, June, July, and September 2009, DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from the general account instead of the payroll account, which checks were all signed by Lewis. The checks averaged \$4,080.00 for each month checks were issued.
- 10. DeBerg was processing escrows for Cresta Verde from January 2009 through at least June 2009.
- 11. On or about January 27, 2009, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 12. On or about June 1, 2009, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 13. During at least the months of January, May, September and December 2010, DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from the general account instead of the payroll account, which checks were all signed by Lewis. The checks averaged \$3,045.75 for each month checks were issued.
 - 14. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2010.
- 15. On or about February 1, 2010, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 16. During at least the months of January, February, April, June, and December 2011, DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from the general account instead of the payroll account, which checks were all signed by Lewis. The checks averaged \$4,000.00 for each month checks were issued.
 - 17. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2011.

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- 18. On or about January 24, 2011, Cresta Verde, by and through Lewis, submitted a Summary of Personnel to the Department that failed to disclose DeBerg.
- 19. On or about April 3, 2012, DeBerg is found working at Cresta Verde, but notwithstanding, Cresta Verde does not disclose DeBerg on the Summary of Personnel required to be filled out at the commencement of all regulatory examinations until questioned by the examiner.
- 20. On or about April 12, 2012 during the course of the special examination, Department examination staff witnesses DeBerg working on trust accounting and handling escrow files.

 Additionally, DeBerg had business cards identifying herself as an escrow officer for Cresta Verde.

IV

A review of the Department's files on Cresta Verde undertaken after the special examination revealed the following:

- 1. DeBerg was present at Cresta Verde at the commencement of the April 2, 1997 regulatory examination. Lewis, when questioned, responded that DeBerg was only at Cresta Verde having lunch and assisting with some title orders.
- 2. On or about April 24, 2000, Cresta Verde files a SIEA for DeBerg. However, on or about May 30, 2000, EAFC denies DeBerg a certificate for fidelity coverage.
- 3. Thereafter, on or about October 24, 2000, Cresta Verde, by and through Lewis, filed a notice of termination regarding Deberg.
- 4. A complaint filed with Department against Cresta Verde in 2002 reveals DeBerg as the escrow officer in the subject escrow transaction as of January 2, 2002. This was a violation of Financial Code section 17414.1(d) and 17419 in that the last communication from Cresta Verde and Lewis regarding Deberg was the October 4, 2000 Notice of Termination.
- 5. On or about January 29, 2002, Cresta Verde, by and through Lewis, violated Financial Code sections 17210.2 and 17348 by filing a Summary of Personnel with the Department that failed to disclose DeBerg.
- 6. On or about January 24, 2003, Cresta Verde, by and through Lewis, violated Financial Code sections 17210.2 and 17348 by filing a Summary of Personnel with the Department that failed to disclose DeBerg.

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- 7. A regulatory examination commenced on or about April 2, 2003, revealed that DeBerg was employed by Cresta Verde in violation of Financial Code section 17414.1 and 17419 in that the last communication from Cresta Verde and Lewis regarding Deberg was the October 4, 2000 notice of termination. The regulatory examination disclosed checks to DeBerg signed by Lewis dating back to September 2002.
- 8. On or about April 10, 2003, after DeBerg was discovered working at Cresta Verde, a SIEA for DeBerg was filed with the Department. During the time the matter was being processed for referral for administrative action, Cresta Verde, by and through Lewis, filed a Summary of Personnel representing DeBerg was no longer employed by Cresta Vede.
- 9. On or about January 18, 2005, Cresta Verde, by and through Lewis, filed a Summary of Personnel with the Department stating that DeBerg is employed as an escrow officer. As such, Cresta Verde and Lewis had once again violated Financial Code sections 17414.1 and 17419 as DeBerg had not been properly reported.

V

California Financial Code section 17608 provides in pertinent part:

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

- (b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.
- (c) Any fact or condition now exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the commissioner in refusing originally to issue such license.

California Financial Code section 17423 provides in pertinent part:

- (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . bar from any position of employment, management, or control any escrow agent, or any other person, if the commissioner finds either of the following:
- (1) That the . . . bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material

damage to the escrow agent or to the public.

VI

Complainant finds that, by reason of the foregoing, Respondents Cresta Verde and Lewis have violated Financial Code sections 17210.2, 17348, 17406(a), 17414.1(d), and 17419 and Respondent DeBerg has violated Financial Code sections 17414.1(d) and 17419 and it is in the best interests of the public to revoke the escrow agent's license of Respondent Cresta Verde and to bar Respondents Lewis and DeBerg from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondents Lewis and DeBerg be barred from any position of employment, management or control of any escrow agent and the escrow agent's license of Respondent Cresta Verde be revoked.

Dated: December 3, 2012 Los Angeles, CA JAN LYNN OWEN
California Corporations Commissioner

Judy L. Hartley
Senior Corporations Counsel