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6

7 BEFORE THE DEPARTMENT OF CORPORATIONS
8 OF THE STATE OF CALIFORNIA
9

10 In the Matter of the Accusation THE) File No.: 963-0855
CALIFORNIA CORPORATIONS)
11 COMMISSIONER,) ACCUSATION
12)
Complainant,)
13)
14 vs.)
15 CRESTA VERDE ESCROW, INC., SHIRLEY)
LEWIS, and KIMBERLY M. DEBERG,)
16)
17 Respondents.)

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

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

3 II

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

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

19 III

20 On or about April 3, 2012, the Commissioner commenced a special examination of Cresta
21 Verde (“special examination”). The special examination was initiated after a regulatory examination
22 commenced in April 2011 disclosed that DeBerg was working at Cresta Verde in violation of
23 Financial Code sections 17414.1(d) and 17419. Pursuant to Financial Code sections 17414.1(d) and
24 17419, a completed statement of identity and employment application (“SIEA”) on or before the first
25 day of employment along with fingerprints within ten days of employment are required to be
26 submitted for all persons seeking employment with an escrow agent or potential escrow agent,
27 except those required to file an Statement of Identity and Questionnaire (“SIQ”), i.e., officers,
28 directors, shareholders and managers.

1 During the 2011 regulatory examination, DeBerg was discovered working at Cresta Verde.
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 (“EAFIC”) 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,
12 since at least March 2007. The special examination further revealed that Cresta Verde and Lewis
13 had been filing false Summaries of Personnel with the Commissioner in violation of Financial Code
14 sections 17210.2, 17348 and/or 17406(a).

15 The special examination specifically found the following:

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

20 2. DeBerg was processing escrows for Cresta Verde from January 2007 through at least
21 September 2007.

22 3. On or about May 23, 2007, Cresta Verde, by and through Lewis, submitted a
23 Summary of Personnel to the Department that failed to disclose DeBerg.

24 4. On or about September 5, 2007, Cresta Verde, by and through Lewis, submitted a
25 Summary of Personnel to the Department that failed to disclose DeBerg.

26 5. During at least the months of March, April, May, June, July, and August 2008,
27 DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks
28 issued from the general account instead of the payroll account, which checks were all signed by

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

2 6. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2008.

3 7. On or about January 18, 2008, Cresta Verde, by and through Lewis, submitted a
4 Summary of Personnel to the Department that failed to disclose DeBerg.

5 8. On or about June 4, 2008, Cresta Verde, by and through Lewis, submitted a Summary
6 of Personnel to the Department that failed to disclose DeBerg.

7 9. During at least the months of April, May, June, July, and September 2009, DeBerg
8 received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from
9 the general account instead of the payroll account, which checks were all signed by Lewis. The
10 checks averaged \$4,080.00 for each month checks were issued.

11 10. DeBerg was processing escrows for Cresta Verde from January 2009 through at least
12 June 2009.

13 11. On or about January 27, 2009, Cresta Verde, by and through Lewis, submitted a
14 Summary of Personnel to the Department that failed to disclose DeBerg.

15 12. On or about June 1, 2009, Cresta Verde, by and through Lewis, submitted a Summary
16 of Personnel to the Department that failed to disclose DeBerg.

17 13. During at least the months of January, May, September and December 2010, DeBerg
18 received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks issued from
19 the general account instead of the payroll account, which checks were all signed by Lewis. The
20 checks averaged \$3,045.75 for each month checks were issued.

21 14. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2010.

22 15. On or about February 1, 2010, Cresta Verde, by and through Lewis, submitted a
23 Summary of Personnel to the Department that failed to disclose DeBerg.

24 16. During at least the months of January, February, April, June, and December 2011,
25 DeBerg received compensation from Cresta Verde. Cresta Verde paid DeBerg by way of checks
26 issued from the general account instead of the payroll account, which checks were all signed by
27 Lewis. The checks averaged \$4,000.00 for each month checks were issued.

28 17. DeBerg was processing escrows for Cresta Verde throughout the calendar year 2011.

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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

By _____
Judy L. Hartley
Senior Corporations Counsel