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8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of THE) File No.: 963-2058
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
15 vs.)
16 CALIBER ESCROW, INC.,)
17 Respondent.)
18)

19 The Complainant is informed and believes and based upon such information and belief,
20 alleges and charges as follows:

21 I

22 Caliber Escrow, Inc. (“Respondent” or “Caliber Escrow”) is an escrow agent licensed by the
23 California Corporations Commissioner (“Commissioner” or “Complainant”) pursuant to the Escrow
24 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 (“audit report”) within one
28 hundred and five (105) days after the close of their fiscal year. Respondent’s fiscal year end is July

1 31. Accordingly, Respondent was required to file its audit report on or before November 15, 2007.

2 On or about June 4, 2007, Complainant notified Respondent in writing that its audit report
3 was due November 15, 2007. Respondent failed to file the audit report by November 15, 2007.

4 On or about December 27, 2007, a follow up letter was sent to Respondent concerning its
5 failure to file the audit report. Respondent was notified in the letter that failure to file the audit
6 report could result in assessment of penalties, a special examination and/or administrative action.

7 Respondent did not file the audit report until April 24, 2008 – 160 days after the time
8 required by Financial Code section 17406. Furthermore the 2008 annual audit report, which became
9 due on November 15, 2008, has not yet been submitted.

10
11 III

12 On May 29, 2008, the Department of Corporations issued an Accusation, Order Imposing
13 Penalties and a Notice of Intention to Issue Order Suspending Escrow Agent’s License. Three
14 months later (on August 18, 2008), the Department of Corporations received a letter from Richard L.
15 Leeds indicating that he was serving as “corporate counsel to Caliber Escrow, Inc.” and that the
16 letter was written on behalf of “and with the consent and approval of Caliber’s CEO Larry Merton.”

17 Upon receipt of that letter, both Mr. Merton and Mr. Leeds were advised in writing that
18 \$16,000 of penalties remained outstanding. Caliber Escrow was also advised that they owed \$2800
19 for assessments which became due on June 30, 2008, \$573.01 for bonding assessments payable to
20 Escrow Agents Fidelity Corporation, and \$9,446.10 to reimburse the Department for examination
21 costs. However, there has been no response and these costs remain unpaid.

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23 IV

24 Financial Code section 17602.5 provides in pertinent part as follows:

25 If any licensed escrow agent fails to make any reports required by law
26 or by the commissioner within ten (10) days from the date designated
27 for the making of the reports, or within any extension of time granted
28 by the commissioner, . . . such failure shall constitute grounds for
the suspension or revocation of the license held by such escrow agent.

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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.

V

Complainant finds that, by reason of the foregoing, Respondent has violated Financial Code section 17406, which constitutes grounds for the revocation of its escrow agent’s license.

WHEREFORE, IT IS PRAYED that the Respondent's escrow agent’s license be summarily revoked.

Dated: December 29, 2008
Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Brent S.B. Lindgren
Senior Corporations Counsel