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7  
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9  
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of: ) ESCROW LICENSE NO. 963-2532  
13 )  
14 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) ACCUSATION TO REVOKE ESCROW  
15 ) AGENT’S LICENSE PURSUANT TO  
Complainant, ) FINANCIAL CODE SECTION 17608  
16 v. )  
17 )  
EQUINE ESCROW, INC., )  
18 )  
19 Respondent. )  
20 )  
21 )

22 The Complainant, the Commissioner of Business Oversight (Commissioner), alleges and  
23 charges Respondent Equine Escrow, Inc. (Equine Escrow) as follows:

24 I.

25 INTRODUCTION

26 1. The Commissioner seeks to revoke the escrow agent’s license issued to Equine  
27 Escrow based upon violations of the California Escrow Law (Fin. Code, § 17000 et seq.) (Escrow  
28 Law), including failure to file annual audit reports and submit books and records for inspection by the

1 Commissioner, as set forth more fully below.

2 **II.**

3 **FACTUAL BACKGROUND**

4 2. Equine Escrow is an escrow agent licensed by the Commissioner under the Escrow  
5 Law since March 17, 2009, with its place of business located at 524-B Hartz Avenue, Danville,  
6 California 94526.

7 3. Richard D. Carvin, Jr. is the President of Equine Escrow.

8 4. On February 27, 2017, Equine Escrow applied to the Commissioner to surrender its  
9 escrow agent’s license. Equine Escrow asserted that it could not locate the original license, and it  
10 was not included in the surrender package.

11 5. The Commissioner sent a letter explaining the surrender process to Equine Escrow on  
12 March 14, 2017. This letter explained the surrender process, including the requirement of a closing  
13 audit submitted by a Certified Public Accountant (CPA). A follow-up letter was sent on June 8,  
14 2017, which was returned as “Unclaimed Unable to Forward.”

15 **III.**

16 **VIOLATIONS OF THE ESCROW LAW**

17 **A. Failure to File December 31, 2016 Audit Report**

18 6. Under section 17406 of the Escrow Law, all licensees are required to file an annual  
19 audit report containing audited financial statements (“audit report”) within 105 days after the close of  
20 the licensee’s fiscal year. Equine Escrow’s fiscal year-end is December 31. Therefore, Equine  
21 Escrow was required to file its audit report for the fiscal year ended December 31, 2016, on or before  
22 April 17, 2017.

23 7. Additionally, Financial Code section 17600 requires that a surrendering escrow agent  
24 submit a closing audit within 105 days of the submission of the escrow agent’s license. A certified  
25 letter that explained the surrender process was sent to Equine Escrow on March 14, 2017. A follow-  
26 up letter was sent on June 8, 2017, but that letter was returned as “Unclaimed Unable to Forward.”

27 8. Equine Escrow has yet to file its 2016 audit report as required under Financial Code  
28 sections 17406 and 17600.



1 commissioner, a bank reconciliation of the trust account, and a verified  
2 statement from a certified public accountant confirming lawful  
3 disbursement of funds. A license is not surrendered until the  
4 commissioner has reviewed and accepted the closing audit report, a  
5 determination has been made by the commissioner that acceptance of  
6 the surrender is in the public interest, and tender of the license is  
7 accepted in writing by the commissioner.

6 17. Financial Code section 17404 provides:

7 Every person subject to this division shall keep and use in its business,  
8 books, accounts, and records which will properly enable the  
9 commissioner to determine whether the escrow functions performed by  
10 such person comply with the provisions of this division and with all  
11 rules made by the commissioner under this division.

11 18. Financial Code section 17348, subdivision (a), provides in pertinent part:

12 At the time of filing an application for an escrow agent's license, the  
13 applicant shall deposit with the commissioner a bond satisfactory to the  
14 commissioner in the amount of at least twenty-five thousand dollars  
15 (\$25,000). Thereafter, a licensee shall maintain a bond satisfactory to  
16 the commissioner in the amount of: (1) twenty-five thousand dollars  
17 (\$25,000) if 150 percent of the previous year's average annual trust  
18 fund obligations, as calculated under Section 17348, equals two  
19 hundred fifty thousand dollars (\$250,000) or less; (2) thirty-five  
20 thousand dollars (\$35,000) if 150 percent of the previous year's average  
21 annual trust fund obligations, as calculated under Section 17348, equals  
22 at least two hundred fifty thousand one dollars (\$250,001) but not more  
23 than five hundred thousand dollars (\$500,000); or (3) fifty thousand  
24 dollars (\$50,000) if 150 percent of the previous year's average annual  
25 trust fund obligations, as calculated under Section 17348, equals five  
26 hundred thousand one dollars (\$500,001) or more. The bond shall run  
27 to the state for the use of the state and for any person who has cause  
28 against the obligor of the bond under the provision of this division. A  
deposit given instead of the bond required by this section shall not be  
deemed an asset of the applicant or licensee for the purpose of  
complying with Section 17210. An applicant or licensee may obtain  
an irrevocable letter of credit approved by the commissioner in lieu of  
the bond.

26 19. Financial Code section 17602.5 provides:

27 If any licensed escrow agent fails to make any reports required by law  
28 or by the commissioner within ten (10) days from the day designated

1 for the making of the reports, or within any extension of time granted  
2 by the commissioner, or fails to include therein any matter required by  
3 law or by the commissioner, such failure shall constitute grounds for  
the suspension or revocation of the license held by such escrow agent.

4 20. Financial Code section 17608 provides:

5  
6 The commissioner may, after notice and a reasonable opportunity to be  
heard, suspend or revoke any license if he finds that:

7 (a) The licensee has failed to maintain in effect a bond required under  
8 the provisions of this division.

9 (b) The licensee has violated any provision of this division or any rule  
10 made by the commissioner under and within the authority of this  
division.

11 (c) Any fact or condition exists which, if it had existed at the time of  
12 the original application for such license, reasonably would have  
13 warranted the commissioner in refusing originally to issue such license.

14 **V.**

15 **PRAYER FOR ORDER REVOKING EQUINE ESCROW, INC.'S**  
16 **ESCROW AGENT'S LICENSE**

17 The Commissioner finds that, by reason of the foregoing, Equine Escrow, Inc. has violated  
18 Financial Code sections 17404, 17600, and 17348, which constitute grounds for the revocation of its  
19 escrow agent's license under sections 17602.5 and 17608 of the Escrow Law.

20 WHEREFORE, IT IS PRAYED under Financial Code sections 17602.5 and 17608 that the  
21 escrow agent's license of Equine Escrow, Inc. be revoked.

22 Dated: March 20, 2018

JAN LYNN OWEN  
Commissioner of Business Oversight

23  
24 By: \_\_\_\_\_  
25 William Horsey  
26 Senior Counsel  
27 Enforcement Division  
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