

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 AFSANEH EGHBALDARI (CA BAR NO. 250107)
Corporations Counsel
4 Department of Corporations
5 1350 Front Street, Room 2034
6 San Diego, California 92101
Telephone: (619) 645-3166
7 Facsimile: (619) 525-4045
8 Attorneys for Complainant

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

11 In the Matter of THE CALIFORNIA) OAH: 2010071388
12 CORPORATIONS COMMISSIONER,) File No. 963-2227
13)
14 Complainant,) **SETTLEMENT AGREEMENT**
15 vs.)
16)
17 EXCELLENCE TEAM ESCROW, INC.,)
18 BRENDA L. FIGLIOLI, AND ALICIA) Date: February 9, 2011
PIMENTEL,) Time: 10:00 a.m.
19) Place: 1350 Front Street
20 Respondents.) San Diego, CA 92101
21)
22)
23)
24)

20 This Settlement Agreement (“Agreement”) is entered into by and between the Complainant,
21 the California Corporations Commissioner (“Commissioner” or “Complainant”), and Respondents,
22 Excellence Team Escrow, Inc., Brenda L. Figlioli, and Alicia Pimentel (“Respondents”) and is made
23 with respect to the following facts:

24 **RECITALS**

25 A. Respondent Excellence Team Escrow, Inc. (“ETE”) is a corporation in good standing,
26 duly formed and existing pursuant to the laws of the State of California, and authorized to conduct
27 business in the State of California.
28

1 B. Respondent ETE currently holds an escrow agent’s license number 963-2227 with its
2 business address located at 18008 Sky Park Circle, Suite 200, Irvine, CA 92614.

3 C. Respondent Brenda L. Figlioli (“Figlioli”) is the only shareholder, president and
4 director of ETE and is authorized to enter into this Agreement on behalf of ETE.

5 D. Respondent Alicia Pimentel (“Pimentel”) is an escrow officer. Pimentel was
6 employed by ETE.

7 E. Respondent ETE filed its 2008 annual audit report 94 days late, in violation of
8 California Financial Code section 17406.

9 F. As a result of the late filing, the Commissioner filed and served his notice of intention
10 to suspend the escrow agent’s license of Respondent ETE. The Commissioner received Respondent
11 ETE’s Notice of Defense. Respondent ETE later withdrew its Notice of Defense and accepted the
12 suspension of its license.

13 G. In January 2009, the Commissioner issued and served an order suspending
14 Respondent ETE’s license for five (5) days from Monday, February 9, 2009 through Friday,
15 February 13, 2009, during which ETE was prohibited from accepting any new escrow business, but
16 could continue to process existing and open escrows (“Suspension Order”). The Suspension Order
17 defined “open escrow” as an escrow wherein the parties to such escrow have already entered into a
18 binding agreement and monies and/or escrow instructions have been submitted to Respondent ETE
19 regarding the transaction.

20 H. Subsequently, the Commissioner conducted an examination of Respondent ETE’s
21 escrow business to ensure that Respondent ETE complied with the Suspension Order. The
22 examination and review of all the documents showed that Respondent ETE, by and through
23 Respondent Figlioli and Respondent Pimentel, accepted at least seven new escrows, in violation of
24 the Suspension Order, and engaged in unlawful acts while handling these seven escrow transactions,
25 including, but not limited to, omitting to provide the Commissioner with the correct copies of the
26 Loan Escrow Instructions documents that contained the actual date that the escrows opened.
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1 I. In July 2010, the Commissioner filed and served his notice of intention to revoke
2 ETE's escrow agent's license, and bar Respondent Figlioli and Respondent Pimentel from any
3 position of employment, management or control of any escrow agent.

4 J. Respondents timely filed their Notices of Defense with the Commissioner and the
5 matters are currently set for a hearing on February 9, 2011.

6 K. It is the intention and desire of the parties to resolve these matters without the
7 necessity of a hearing and or other litigation. Respondents, without admitting or denying any of the
8 allegations contained in the Accusation, the facts in this Recital and section II of the Order, hereby
9 agree and stipulate to the terms and conditions of this Agreement.

10 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
11 forth herein, the Parties agree as follows:

12 **TERMS AND CONDITIONS**

13 1. **Purpose.** The purpose of this Agreement is for judicial economy and expediency,
14 and to avoid the expense of a hearing, and possible further court proceedings.

15 2. **Revocation.** Respondent ETE hereby agrees to the revocation of its escrow agent's
16 license (license number 963-2227). A copy of the Revocation Order is attached and incorporated as
17 Exhibit A.

18 3. **Bar.** Respondent Figlioli hereby agrees to be barred from any position of
19 employment, management or control of any escrow agent. A copy of the Order Barring Figlioli from
20 any position of employment, management or control of any escrow agent is attached and
21 incorporated as Exhibit A.

22 4. **Suspension.** Respondent Pimentel hereby agrees to be suspended from any position
23 of employment, management or control of any escrow agent for a period of five (5) days. The
24 suspension shall commence on Monday December 27, 2010 and continue through Friday December
25 31, 2010. Respondent Pimentel is also precluded from engaging in any escrow processing activities
26 during the suspension period. A copy of the Suspension Order is attached and incorporated as
27 Exhibit A.
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1 5. **Waiver of Hearing Rights.** Respondents acknowledge their rights to an
2 administrative hearing and hereby waive their rights to a hearing, and to any reconsideration, appeal,
3 or other right to review which may be afforded pursuant to the Escrow Law, the California
4 Administrative Procedure Act (“APA”), the California Code of Civil Procedure, or any other
5 provision of law, and by waiving such rights, consents to this Agreement becoming final.

6 6. **Failure to Comply with the Agreement.** Respondents acknowledge and agree that
7 their failure to comply with the terms of this Agreement will be a breach of this Agreement and shall
8 result in automatic assessment of fines, attorney fees and costs. The amount of fines shall be two
9 thousand five hundred dollars (\$2,500) for each violation. The amount of attorney fees and costs
10 will be determined by the California Department of Corporations. Respondent Pimentel further
11 acknowledges and agrees that her failure to comply with the terms of the Agreement will be a breach
12 of this Agreement and shall result in Pimentel being automatically barred from any position of
13 employment, management or control of any escrow agent. Respondents waive any notice and
14 hearing rights to contest such fines, attorney fees and costs.

15 7. **Settlement Agreement Coverage.** The Parties hereby acknowledge and agree that
16 this Agreement is intended to constitute a full, final and complete resolution of the Accusation and
17 Penalty Order only. The Parties further acknowledge and agree that nothing contained in this
18 Agreement shall operate to limit the Commissioner's ability to assist any other agencies with any
19 prosecution, administrative, civil or criminal, brought by any such agency against Respondents
20 based upon any of the activities alleged in this matter or otherwise.

21 8. **Filing with the Office of Administrative Hearings.** The Commissioner shall cause
22 this Agreement to be filed with the Office of Administrative Hearings upon execution by all Parties
23 hereto.

24 9. **Independent Legal Advice.** Each of the Parties represents, warrants, and agrees that
25 it has received or been advised to seek independent legal advice from his or her attorneys with
26 respect to the advisability of executing this Agreement.

27 10. **Reliance.** Each of the Parties represents, warrants, and agrees that in executing this
28 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel

1 and has placed no reliance on any statement, representation, or promise of any other party, or any
2 other person or entity not expressly set forth herein, or upon the failure of any party or any other
3 person or entity to make any statement, representation or disclosure of anything whatsoever. The
4 Parties have included this clause: (1) to preclude any claim that any party was in any way
5 fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol
6 evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

7 11. **Full Integration.** This Agreement, including the attached orders, is the final written
8 expression and the complete and exclusive statement of all the agreements, conditions, promises,
9 representations, and covenants between the Parties with respect to the subject matter hereof, and
10 supercedes all prior or contemporaneous agreements, negotiations, representations, understandings,
11 and discussions between and among the Parties, their respective representatives, and any other
12 person or entity with respect to the subject matters covered hereby.

13 12. **No Presumption From Drafting.** In that the Parties have had the opportunity to
14 draft, review and edit the language of this Agreement, no presumption for or against any party
15 arising out of drafting all or any part of this Agreement will be applied in any action relating to,
16 connected, to, or involving this Agreement. Accordingly, the Parties waive the benefit of California
17 Civil Code section 1654 and any successor or amended statute, providing that in cases of
18 uncertainty, language of a contract should be interpreted most strongly against the party who caused
19 the uncertainty to exist.

20 13. **Effective Date.** This Agreement shall not become effective until signed by all Parties
21 and delivered by all Parties.

22 14. **Counterparts.** This Agreement may be executed in one or more counterparts, each
23 of which shall be an original but all of which, together, shall be deemed to constitute a single
24 document.

25 15. **Modifications and Qualified Integration.** No amendment, change or modification
26 of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of
27 the Parties affected by it.
28

1 16. **Headings and Governing Law.** The headings to the paragraphs of this Agreement
2 are inserted for convenience only and will not be deemed a part hereof or affect the construction or
3 interpretation of the provisions hereof.

4 17. **Authority For Settlement.** Each signator hereto warrants and represents that he or
5 she possesses all necessary capacity and the authority to sign and execute this Agreement.

6 18. **Notices.** Any notices required under the Agreement shall be provided to each party at
7 the following addresses:

8 If to Respondents to: Michael J. Matlaf, Esq.,
9 26000 Towne Center Drive, Suite 200
10 Foothill Ranch, CA 92610

11 If to the Commissioner to: Afsaneh Eghbaldari, Esq., Corporations Counsel
12 California Department of Corporations
13 1350 Front St, Room 2034, San Diego, CA 92101

14 19. **Voluntary Agreement.** The Parties each represent and acknowledge that he, she or
15 it is executing this Agreement completely voluntarily and without any duress or undue influence of
16 any kind from any source.

17 PRESTON DuFAUCHARD
18 California Corporations Commissioner

19
20 Dated: _____ 12/21/2010 _____ By _____
21 Alan S. Weinger
22 Deputy Commissioner

23
24 Dated: _____ 12/21/2010 _____ By _____
25 Brenda L. Figlioli, individually and on behalf of Excellence
26 Team Escrow, Inc.

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28 Dated: _____ 12/21/2010 _____ By _____
 Alicia Pimentel

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Approved as to Form

Dated: _____ 12/21/2010 _____

By _____
Michael J. Matlaf, Esq.
Attorney for Excellence Team Escrow, Inc., Brenda L.
Figilioli and Alicia Pimentel