

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 BLAINE A. NOBLETT (BAR NO. 235612)
Corporations Counsel
4 320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
5 Telephone: (213) 576-1396 Fax: (213) 576-7181

6 Attorneys for Complainant

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

10 In the Matter of THE CALIFORNIA)
11 CORPORATIONS COMMISSIONER,)

File No.: 963-2341

12 Complainant,)

**STATEMENT OF FACTS IN SUPPORT OF
ORDER TO DISCONTINUE UNSAFE OR
INJURIOUS PRACTICES PURSUANT TO
FINANCIAL CODE SECTION 17603**

13 v.)
14)

15 JD ESCROW, INC.,)

16 Respondent.)
17)
18)

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

- 21 1. JD Escrow, Inc. ("JD Escrow") is an escrow agent holding a valid and unrevoked
22 license issued by the California Corporations Commissioner ("Commissioner") pursuant to the
23 Escrow Law (Fin. Code, §§ 17000 et seq.) and has its office located at 10161 Bolsa Avenue, Suite
24 207-A, Westminster, California 92683.
- 25 2. Julie Hanh Dao ("Dao") is the escrow officer, president, and owner of JD Escrow.
- 26 3. On or about August 27, 2009, the Commissioner commenced a regulatory examination
27 of JD Escrow based upon a consumer complaint. The regulatory examination disclosed that
28 commencing on or about January 6, 2009 and continuing thereafter, JD Escrow had processed two

1 concurrent escrows concerning the same property and allowed the second escrow to close without
2 notice to the buyers in either escrow of the other's existence.

3 4. Specifically, the Commissioner's examiner found that JD Escrow failed to follow the
4 mutually signed escrow instructions in the first escrow, as the escrow was still open at the time the
5 second escrow closed in violation of California Code of Regulations, title 10, section 1738.2. Under
6 section 1738.2, the escrow agent is required to obtain written cancellation instructions from both
7 parties to the escrow before allowing a second escrow on the same property with different buyers to
8 close. Furthermore, JD Escrow by allowing the two concurrent escrows to exist simultaneously
9 failed to exercise sound escrow or business practices in the processing of these escrow transactions.

10 5. In addition, the Commissioner's examiner found that the buyer's deposit in the first
11 escrow transaction was released to the seller, less an escrow cancellation fee, without JD Escrow
12 having first obtained written authorization from the buyer to release the funds in violation of
13 Financial Code section 17414, subdivision (a)(1). Under section 17414, subdivision (a)(1), a licensee
14 may only release escrow funds when both parties mutually agree in writing.

15 6. Finally, the Commissioner's examiner discovered that JD Escrow had violated
16 California Code of Regulations, title 10, section 1740.1, by failing to provide a written disclosure to
17 the escrow parties concerning the relationship between the escrow officer and owner of JD Escrow,
18 Dao, and the seller/listing agent in the subject escrow transactions, Dao's brother, Khanh Dao.

19 7. Financial Code section 17414, subdivision (a)(1) provides:

20 (a) It is a violation for any person subject to this division or any director,
21 stockholder, trustee, officer, agent, or employee of any such person to do any
22 of the following:

23 (1) Knowingly or recklessly disburse or cause the disbursement of escrow
24 funds otherwise than in accordance with escrow instructions, or knowingly or
25 recklessly to direct, participate in, or aid or abet in a material way, any activity
26 which constitutes theft or fraud in connection with any escrow transaction.

27 8. California Code of Regulations, title 10, section 1738.2 provides:

28 An escrow agent shall use documents or other property deposited in escrow
only in accordance with the written escrow instructions of the principals to the
escrow transaction or the escrow instructions transmitted electronically over
the Internet executed by the principals to the escrow transaction, or if not

1 otherwise directed by written or electronically executed instructions, in
2 accordance with sound escrow practice, or pursuant to order of a court of
3 competent jurisdiction.

4 9. California Code of Regulations, title 10, section 1740.1 provides:

5 An escrow agent shall act without partiality to any of the escrow parties to an
6 escrow transaction. If an escrow agent or a person or company related to or
7 affiliated with the escrow agent is a principal to the escrow transaction or is
8 acting or has acted as broker or salesman in relation to the escrow transaction,
9 the escrow agent shall advise in writing all parties to the escrow transaction of
10 such relationship or affiliation before being employed as escrow agent in
11 connection with such transaction. Such advice shall be on the face of the
12 escrow instructions in not less than eight (8) point bold type. Internet escrow
13 agents may transmit the advice electronically over the Internet to all parties to
14 the escrow transaction.

15 10. By reason of the foregoing, JD Escrow has violated Financial Code section 17414,
16 subdivision (a)(1) and California Code of Regulations, title 10, sections 1738.2 and 1740.1.

17 11. Financial Code section 17603 provides:

18 If it appears to the commissioner that any licensed escrow agent is conducting
19 business in an unsafe or injurious manner, the commissioner shall, by written
20 order addressed to the agent direct the discontinuance of such unsafe or
21 injurious practices. The order shall be effective immediately, but shall not
22 become final except in accordance with the provisions of Section 17604.

23 12. Financial Code section 17604 provides:

24 No order issued pursuant to Sections 17602 or 17603 may become final except
25 after notice to any licensed escrow agent affected thereby of the intention of
26 the commissioner to make such order final and of the reasons therefor and that
27 upon receipt of a request the matter will be set down for hearing to commence
28 within 15 business days after such receipt unless the licensed agent affected
consents to a later date. If no hearing is requested within 30 days after the
mailing of such notice and none is ordered by the commissioner, the order may
become final without hearing and the licensed escrow agent shall immediately
discontinue the practices named in the order. If a hearing is requested or
ordered, it shall be held in accordance with the provisions of the
Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of
Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner
shall have all of the powers granted thereunder. If upon the hearing, it appears
to the commissioner that the licensed agent is conducting business in an unsafe
and injurious manner or is violating its articles of incorporation or any law of
this state, or any rule binding upon it, the commissioner shall make the order of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

discontinuance final and the licensed escrow agent shall immediately
discontinue the practices named in the order.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue
Unsafe or Injurious Practices and notifying JD Escrow of his intention to make the Order final.

DATED: November 16, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Blaine A. Noblett
Corporations Counsel