

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
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Deputy Commissioner  
3 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
4 Department of Corporations  
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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

10  
11 In the Matter of the Accusation of THE ) File No.: 963-0205  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) ACCUSATION  
13 )  
Complainant, )  
14 )  
15 vs. )  
16 MONROVIA ESCROWS and JUDY GOOLER )  
aka JUDITH GOOLER, )  
17 )  
18 Respondents. )

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

21 I

22 Respondent Monrovia Escrows ("Monrovia") is an escrow agent licensed by the California  
23 Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the  
24 State of California (California Financial Code Section 17000 et seq.). Monrovia has its principal  
25 place of business at 346 W. Foothill Boulevard, Monrovia, California 91016.

26 Respondent Judy Gooler aka Judith Gooler ("Gooler") was at all times relevant herein the  
27 president and escrow manager of Monrovia.  
28

## II

1  
2 On or about October 7, 2010, the Commissioner, by and through his staff, commenced a  
3 regulatory examination of the books and records of Monrovia. The regulatory examination has not  
4 yet been concluded because unusual activity was noted and Monrovia has failed to provide all the  
5 documentation requested as further described below.

6 At the commencement of the regulatory examination, Respondents were requested to provide  
7 the daily computer trust reports for October 1, 2010 through October 6, 2010, the trust account and  
8 accommodation trust bank reconciliations and month end escrow status reports for January 1, 2010  
9 through September 30, 2010 along with the current financial statements. Respondents stated that the  
10 books and records were not up to date; therefore the requested documents could not be provided.  
11 The most recent trust account and accommodation trust bank reconciliation Respondents could  
12 provide was for the period ended December 31, 2009 and May 31, 2010, respectively, in violation of  
13 Financial Code section 17404 and California Code of Regulations, title 10, section 1732.2.

14 On or about October 20, 2010, the Department examiner returned to Monrovia to continue  
15 with the regulatory examination. While the accommodation trust account bank reconciliation was  
16 now prepared through June 30, 2010, the December 31, 2009 reconciliation remained the most  
17 recent bank reconciliation for the trust account. Thereafter, on or about October 21, 2010, a written  
18 demand was made to Respondents to provide, by 12:00 p.m. on October 25, 2010, the monthly  
19 computer printouts for the trust accounts through September 30, 2010, to include receipt and check  
20 activities and adjustments, daily control summary, trial balance and current status report, and the  
21 bank reconciliations for the trust account and accommodation account and month end status reports  
22 for January 2010 through September 30, 2010.

23 On or about October 25, 2010, Respondents provided a September 30, 2010 trust account  
24 bank reconciliation with supporting schedules. However, a review of the September 30, 2010 trust  
25 account reconciliation disclosed that eight checks on the outstanding checklist were entered with  
26 incorrect payees and/or amounts. The difference between the actual amounts of the checks and the  
27 amount entered on the outstanding checklist totaled \$11,771.44. As the September 30, 2010 trust  
28 account bank reconciliation contained inaccurate information, on or about November 19, 2010,

1 Respondents were notified in writing that they had failed to comply with the Commissioner's  
2 demand for up to date records. On or about December 8, 2010, Respondents provided a revised  
3 September 30, 2010 trust account bank reconciliation. However, this reconciliation did not balance  
4 and Respondents have yet to comply with the Commissioner's demand to provide an accurate trust  
5 account bank reconciliation for the period ended September 30, 2010.

### 6 III

7 A review of the May 31, 2008 trust account bank reconciliation disclosed two adjusting  
8 items. The two items were wire transfers made on May 21, 2008 in the amounts of \$715,531.94 and  
9 \$741,977.52 from the Monrovia trust account that according to the notes should have been made  
10 from Greystone Exchange Company accommodation account. Greystone Exchange Company is a  
11 separate company owned by Gooler and it acts as an accommodator in the exchange of real property  
12 under Internal Revenue Code section 1031. According to the Monrovia trust account bank  
13 statement, the wire transfers were for Monrovia escrow numbers 21940 and 21957. However, there  
14 was nothing posted to the ledgers of these escrows regarding these wire transfers and the escrows  
15 contained insufficient funds to cover such transfers.

16 On or about December 20, 2010, Respondents were requested to provide the files for  
17 Monrovia escrow numbers 21940 and 21957. On or about December 27, 2010, Respondents  
18 represented that the files could not be found, at which time a formal written demand for the  
19 production of such escrow files along with the pertinent bank statements for the accommodator  
20 account was made to Respondents. The demand also required Respondents to replace what appeared  
21 to be the \$1,457,509.40 in unauthorized disbursements in violation of Financial Code section  
22 17414(a)(1) and California Code of Regulations, title 10, section 1738 and 1738.2 by close of  
23 business December 27, 2010 if Respondents could not provide the demanded files and information  
24 that would reveal whether or not the wire transfers were authorized or not. Respondents have yet to  
25 comply with the Commissioner's demand to provide records concerning the questionable wire  
26 transfers or replace the funds in violation of Financial Code section 17405.

27 Further investigation by the Commissioner's staff revealed that the settlement agent for the  
28 real estate transaction involving the two May 21, 2008 wire transfers from the Monrovia trust

1 account was Lawyers Title Company, not Monrovia, and the accommodator for this 1031 exchange  
2 was Gooler's company, Gerystone Exchange Company. Based on this information, it appears that  
3 the funds necessary to close the escrow at Lawyers Title Company were sent from the Monrovia  
4 trust account when they should have come from Greystone Exchange Company, resulting in a  
5 possible trust account shortage of \$1,457,509.46 at Monrovia. The Commissioner's staff has been  
6 unable to find any deposits to the Monrovia trust account to cover these unauthorized disbursements  
7 and Respondents continue in their failure to produce any documentation or information surrounding  
8 these disbursements.

#### 9 IV

10 The regulatory examination also noted several instances of posting false information to the  
11 books and records in violation of Financial Code section 17414(a)(2), which are described as  
12 follows:

13 1. On or about November 30, 2008, Respondents issued trust check number 7298 in the  
14 amount of \$776,965.39. Respondents improperly posted trust check number 7298 to the November  
15 30, 2008 Outstanding Checklist in the amount of \$61,433.45. On December 1, 2008, trust check  
16 number 7298 cleared in the amount of \$776,965.39. The difference between the actual amount of  
17 the check and what was posted to the Outstanding Checklist was \$715,531.94; the exact amount of  
18 one of the May 21, 2008 unauthorized wire transfers described in Section III above. Respondents  
19 understating of the outstanding checks in November 2008 allowed the adjusted trust account bank  
20 balance for November 2008 to be overstated by \$715,531.94.

21 2. On or about December 31, 2008, Respondents issued trust check number 7364 to  
22 Monrovia's general account in the amount of \$20,000.00. The check cleared the bank on April 7,  
23 2009. The check was correctly posted on the Outstanding Checklist for December 2008 and January  
24 2009, but was taken off the February and March 2009 Outstanding Checklists despite not clearing  
25 the bank until April 2009. As a result of this check having been improperly removed from the  
26 February and March 2009 Outstanding Checklists, the adjusted trust account bank statement for both  
27 months was overstated by \$20,000.00.

28 3. On or about February 23, 2009, Respondents issued trust check number 7508 in the

1 amount of \$731,746.56 to the Monrovia trust account. Thereafter, on or about February 27, 2009,  
2 Respondents issued trust check numbers 7526 and 7527, both in the amount of \$731,746.56 to the  
3 Monrovia trust account and the Monrovia accommodation account, respectively. All three trust  
4 checks cleared the bank in February 2009. Notwithstanding, trust check number 7527 made payable  
5 to the Monrovia accommodation account was improperly posted on the February 28, 2009 trust  
6 account bank reconciliation as a deposit in transit. As a result of this improper posting, the adjusted  
7 trust account bank balance for February 2009 was overstated by \$731,746.56.

8 V

9 It was additionally discovered during the regulatory examination that fifty-two outstanding  
10 trust checks, dating from January 7, 2005 through January 14, 2008, contained in the March 2009  
11 Outstanding Checklist totaling \$32,282.34 were no longer listed on the April 2009 Outstanding  
12 Checklist. A review of the Monthly Check Activities and Adjustments list and the Monthly Receipt  
13 Activities and Adjustments list for April 2009 showed a series of adjusting entries for each  
14 outstanding trust check that had been removed from the April 2009 Outstanding Checklist.

15 There was no evidence that the funds represented by these checks had been sent to the  
16 California Secretary of State under the provisions of the Unclaimed Property Law or that the funds  
17 had otherwise been paid to the check payees. Accordingly, on or about November 9, 2010,  
18 Respondents were requested to provide supporting documentation for removal of the checks from  
19 the Outstanding Checklist. In particular, Respondents were requested to provide all supporting  
20 documentation for five of the fifty-two checks. Respondents did not provide any supporting  
21 documentation or information in violation of Financial Code section 17405 despite three further  
22 written demands until on or about March 10, 2011, when Respondents faxed copies of the  
23 replacement checks for the five randomly selected checks, of which only two had cleared the bank at  
24 that point. A review of the replacement checks disclosed that the replacement checks had been  
25 issued on or about December 29, 2010 and February 2, 2011, after the Commissioner's demand for  
26 supporting documentation, and almost twenty months after these outstanding checks had been  
27 removed from the Outstanding Checklist.

## VI

1  
2 A review of the Escrow Trial Balances disclosed that 289 escrow ledger balances totaling  
3 \$462,175.52 contained in the March 31, 2009 Escrow Trial Balance were no longer listed on the  
4 April 30, 2009 Escrow Trial Balance. A review of the Monthly Check Activities and Adjustments  
5 list for April 2009 revealed improper adjusting items for the majority of the ledger balances. For  
6 example, the majority of the removed ledger balances were adjusted by the alleged issuance of a  
7 trust check. However, the trust check numbers entered on the Monthly Check Activities and  
8 Adjustments list were not legitimate trust check numbers for Monrovia and matched the escrow file  
9 number in each instance indicating that no trust check had in fact been issued. Accordingly,  
10 Respondents were requested to provide supporting documentation for removal of the escrow ledger  
11 balances from the Escrow Trial Balance. Respondents have not provided any supporting  
12 documentation or information in violation of Financial Code section 17405.

## VII

13  
14 California Financial Code section 17608 provides in pertinent part:

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

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

20 California Financial Code section 17423 provides in pertinent part:

21 (a) The commissioner may, after appropriate notice and opportunity  
22 for hearing, by order, . . . bar from any position of employment,  
23 management, or control any escrow agent, or any other person, if the  
24 commissioner finds either of the following:

25 (1) That the . . . bar is in the public interest and that the person has  
26 committed or caused a violation of this division or rule or order of  
27 the commissioner, which violation was either known or should have  
28 been known by the person committing or causing it or has caused material  
damage to the escrow agent or to the public.

## VIII

Complainant finds that, by reason of the foregoing, Respondents Monrovia Escrows and Judy  
Cooler have violated Financial Code sections 17404, 17405, 17414(a)(1) and 17414(a)(2) and

1 California Code of Regulations, title 10, sections 1732.2, 1738, and 1738.2 and it is in the best  
2 interests of the public to revoke the escrow agent’s license of Respondent Monrovia Escrows and bar  
3 Respondent Judy Gooler from any position of employment, management or control of any escrow  
4 agent.

5 WHEREFORE, IT IS PRAYED that the escrow agent’s license of Respondent Monrovia  
6 Escrows be revoked and Respondent Judy Gooler be barred from any position of employment,  
7 management or control of any escrow agent.

8 Dated: June 6, 2011  
9 Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

10 By \_\_\_\_\_  
11 Judy L. Hartley  
12 Senior Corporations Counsel  
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