

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 ALAN S. WEINGER  
Deputy Commissioner  
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Department of Corporations  
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9 BEFORE THE DEPARTMENT OF CORPORATIONS

10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of THE )  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) File No.: 963-1780  
)  
13 Complainant, ) ORDER IMPOSING PENALTIES PURSUANT  
) TO CALIFORNIA FINANCIAL CODE  
14 vs. ) SECTION 17408  
)  
15 MOUNTAINSIDE ESCROW, )  
16 Respondent. )  
17

18 TO: MOUNTAINSIDE ESCROW  
19 405 North Maclay Ave, Unit #202  
20 San Fernando, CA 91340

21 NOW THEREFORE the California Corporations Commissioner (“Commissioner”) having  
22 found that MOUNTAINSIDE ESCROW failed to file its annual audit report containing audited  
23 financial statements for its fiscal year ended December 31, 2009 (herein “Annual Report”) as  
24 required by Financial Code section 17406, MOUNTAINSIDE ESCROW is hereby ordered, pursuant  
25 to Financial Code section 17408, to pay to the Commissioner the sum of **\$33,500.00**, plus an  
26 additional \$250.00 per calendar day for each day after the date of this Order that the Annual Report  
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1 is not filed.<sup>1</sup> Moreover, the Commissioner having found that MOUNTAINSIDE ESCROW failed to  
 2 pay its assessment due June 30, 2010 (“Assessment”) as required by Financial Code section  
 3 17207(e), MOUNTAINSIDE ESCROW is hereby ordered to pay to the Commissioner the sum of  
 4 **\$3,920.00**, plus an additional 10% penalty for every thirty days after the date of this Order that the  
 5 Assessment is not paid.<sup>2</sup>

6 Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to  
 7 file an annual audit report containing audited financial statements (“Annual Report”) within one  
 8 hundred and five (105) days after the close of their fiscal year. MOUNTAINSIDE’s fiscal year end  
 9 is December 31, 2009. Accordingly, Respondent was required to file its Annual Report on or before  
 10 April 15, 2010. On November 2, 2009, Complainant notified MOUNTAINSIDE in writing that its  
 11 Annual Report was due April 15, 2010 for the fiscal year ending December 31, 2009.

12 MOUNTAINSIDE failed to file the Annual Report by the April 15, 2010 due date. On May  
 13 19, 2010, a follow up demand letter was sent to Respondent concerning its failure to file the Annual  
 14 Report. MOUNTAINSIDE was notified in the letter that failure to file to the Annual Report could  
 15 result in the assessment of penalties calculated from the expiration date of the 10-day demand letter,  
 16 a special examination and/or administrative action. MOUNTAINSIDE has yet to file the Annual  
 17 Report as required by Financial Code section 17406.

18 Financial Code Section 17408, subdivisions (b) – (e) provides as follows:

19 (b) The commissioner may impose, by order, a penalty on any person  
 20 who fails, within the time specified in any written demand of the  
 21 commissioner, (1) to make and file with the commissioner any report  
 22 required by law or requested by the commissioner. . . . The amount of the  
 23 penalty shall be one hundred dollars (\$100) for each day for the first five  
 24 days the report or information is overdue and, thereafter, five hundred dollars  
 25 (\$500) for each day the report or information is overdue.

26 (c) If, after an order has been made under subdivision (b), a request for  
 27 hearing is filed in writing within 30 days of the date of service of the order  
 28 by the person to whom the order was directed, a hearing shall be held  
 in accordance with the Administrative Procedure Act, Chapter 5 (commencing  
 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government

<sup>1</sup> Accrued Penalties = \$50.00 per day for the first five (5) days of delinquency (May 29, 2010 – June 2, 2010) then \$250.00 per day for each day of delinquency thereafter.

<sup>2</sup> Assessment and Accrued Penalties = \$2,800.00 Assessment due on June 30, 2010 plus 10% (\$280.00) per month since the date due for a total of \$3920.00 as of October 30, 2010.

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Code, and the commissioner shall have all the powers granted under that chapter.

(d) If the person fails to file a written request for a hearing within 30 days of the date of service of the order, the order imposing the penalty shall be deemed a final order of the commissioner, and the penalty shall be paid within five business days.

(e) If a hearing is requested, the penalty shall be paid within five business days after the effective date of any decision in the case ordering payment to be paid.

Pursuant to Financial Code section 17207, all licensees under the Escrow Law are required to pay an annual license fee or Assessment for each location in an amount not to exceed \$2800.00. Invoice No. ES0420 in the amount of \$2,800.00 was sent to MOUNTAINSIDE, as required by Financial Code section 17207, on May 30, 2010. Payment for the invoice was due June 30, 2010. A penalty of 10% is due for each month or partial month the payment was received after June 30, 2010, pursuant to Financial Code section 17207(e)(3). On August 11, 2010, Complainant sent MOUNTAINSIDE a follow up demand letter concerning the failure to pay the Assessment. MOUNTAINSIDE was notified in the letter that failure to pay the Assessment and related penalties, if any, could result in the revocation of its escrow license. MOUNTAINSIDE, to date, has yet to pay the Assessment and/or any penalties relating to the Assessment.

Financial Code section 17207(e) provides in pertinent part as follows:

(e) (1) Each escrow agent shall pay to the commissioner for the support of this division for the ensuing year an annual license fee not to exceed two thousand eight hundred dollars (\$2,800) for each office or location.

(4) If an escrow agent fails to pay the amount due on or before the June 30 following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company.

Dated: October 14, 2010  
Sacramento, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Alan S. Weinger  
Deputy Commissioner