

BEFORE THE
DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ORACLE ESCROW, INC.,

Respondent.

Case No. 963-2001

OAH No.: 2008100384

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated December 4, 2008, is hereby adopted by the Department of Corporations as its Decision in the above-entitled matter.

This Decision shall become effective on 13 March 2009.

IT IS SO ORDERED this 12th day of March 2009.

CALIFORNIA CORPORATIONS COMMISSIONER

Preston DuFauchard

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PROPOSED DECISION

This matter was heard on November 12, 2008, in Los Angeles, by Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings, State of California.

Respondent Oracle Escrow, Inc. (Respondent) was represented by Judith Gallardo, President of Oracle Escrow, Inc.(Gallardo).

Complainant, Preston DuFauchard, California Corporations Commissioner (Commissioner), was represented by John R. Drews, Corporations Counsel.

Oral and documentary evidence was presented and the matter was submitted for decision on November 12, 2008.

FACTUAL FINDINGS

1. Respondent was, and is, an escrow agent licensed by Complainant pursuant to the Escrow Law (Financial Code § 17000 et seq.) Respondent was initially licensed in February 2003.

2. As a licensee, Respondent was, and is, required to file an annual audit report, certified by a certified practicing accountant (CPA), each year. Respondent's annual audit reports are due within 105 days after the end of their fiscal year, which is July 31. Respondent failed to file an audit report for the years 2006 and 2007, despite multiple requests from the Department that it do so.

3. Respondent offered her own testimony and that of a non-certified accountant and of a CPA. Both were hired by Gallardo within the last month. Both have made cursory review of Respondent's financial records and feel that they can complete and file audit reports for 2006, 2007, and 2008 (which is due on November 15, 2008) within 45 days. Their testimony is unconvincing. First, both were only recently hired despite the fact that the Department has given Respondent multiple opportunities to file reports. Second, CPA

Andrew M. Smith has made only a “cursory evaluation” of the situation and he has a serious surgery scheduled during December 2008. Third, Mr. Smith conceded that his evaluation was only cursory and that additional problems were likely to arise when he actually began his audit.

4. Gallarado went through a divorce and unspecified health issues in 2006. Prior to this time she had filed timely audit reports. After her divorce and health issues, she “could not focus.” This testimony is also unconvincing and is unsupported by any corroborating evidence, such as a doctor’s report. While Gallarado’s personal problems could explain a short delay in filing the audit reports, the 2006 audit report is now almost two years late. Additionally, Gallarado was sent multiple letters by the Department asking her to file the audit reports at issue. Some of these letters threatened penalties and/or administrative action. Despite these warnings, Gallarado still took no action until the instant administrative hearing was upon her. Such conduct does not support her testimony that she will actually follow through and file the late audit reports.

LEGAL CONCLUSION AND DISCUSSION

1. Cause exists to revoke or suspend Respondent’s escrow agent license pursuant to Financial Code 17608 because of Respondent’s failure to comply with Financial Code sections 17602.5 as fully set forth in factual findings 1-4.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Escrow Agent License held by Oracle Escrow, Inc., is suspended until such time as the Department is provided with past due audit reports for the 2006 fiscal year and the 2007 fiscal year. After said audit reports are received, the suspension shall be lifted within 10 days. If said reports are not received by the Department by May 1, 2009, Respondent’s Escrow Agent License shall be revoked.

DATED: December ____, 2008.

CHRIS RUIZ
Administrative Law Judge
Office of Administrative Hearings