

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 ALAN S. WEINGER  
Deputy Commissioner  
3 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
4 Department of Corporations  
320 West 4<sup>th</sup> Street, Suite 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604 Fax: (213) 576-7181  
6 Attorneys for Petitioner  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO, EAST COUNTY REGIONAL CENTER  
10

11 THE PEOPLE OF THE STATE OF ) Case No.  
CALIFORNIA, BY AND THROUGH THE )  
12 CALIFORNIA CORPORATIONS ) PETITION FOR LIMITED RECEIVER  
COMMISSIONER, ) (No Fee-Government Code section 6103)  
13 )  
14 Petitioner, )  
15 vs. )  
16 PIRON ESCROW, INC. a California )  
17 Corporation, )  
18 Respondent. )  
19

20 Petitioner, the People of the State of California, by and through the California Corporations  
21 Commissioner (“Commissioner” or “Petitioner”), administers the provisions of the California  
22 Escrow Law (Financial Code § 17000 et seq.), and the regulations issued pursuant thereto (Title 10,  
23 California Code of Regulations, Chapter 3, Subchapter 9, Sections 1700 et seq.), which regulate the  
24 business and activities of independent escrow agents.

25 The Petitioner having issued an Order Taking Possession of the Trust Funds and Escrow  
26 Records of Piron Escrow, Inc. pursuant to Financial Code section 17621, respectfully states:

27 1. On or about April 3, 2008, Petitioner issued an escrow agent's license pursuant to the  
28 California Escrow Law to Piron Escrow, Inc. ("Piron Escrow"), a California corporation. At the

1 time of licensure, Piron Escrow was known as CF Escrow, Inc. Pursuant to that license, Petitioner  
2 authorized Piron Escrow to engage in business as an escrow agent within the State of California.  
3 The license is currently valid and unrevoked. Piron Escrow's principal place of business was located  
4 at 778 Jamacha Road, El Cajon, California 92019.

5 2. Christian Freeman ("Freeman") was the president and sole shareholder of Piron  
6 Escrow until on or about May 19, 2011.

7 3. Tammy Piron ("Piron") is, and has been since on or about May 19, 2011, the  
8 president and sole shareholder of Piron Escrow.

9 4. Subsequent to the purchase of Piron Escrow from Freeman, Piron changed the name  
10 of the escrow company from CF Escrow, Inc. to Piron Escrow. Petitioner issued an amended escrow  
11 agent's license authorizing the use of the name Piron Escrow on or about July 26, 2011.

12 5. On or about May 31, 2011, Petitioner received information from Piron that Freeman  
13 had sent her an email confessing that he had embezzled \$435,000.00 from the escrow trust account  
14 over the last two years. Based upon such information, Petitioner, by and through his staff,  
15 commenced a special examination of the books and records of Piron Escrow on or about June 1,  
16 2011.

17 6. The special examination, which was completed on or about July 19, 2011, disclosed  
18 that commencing in or about December 11, 2009 and continuing through at least April 22, 2011,  
19 Freeman had diverted escrow trust deposits into the escrow company's general and payroll bank  
20 accounts and/or his personal bank account(s) and/or made unauthorized disbursements of escrow  
21 trust funds to the company payroll account or himself totaling \$437,935.52 in violation of Financial  
22 Code sections Financial Code section 17409 and 17414(a)(1) and California Code of Regulations,  
23 title 10, sections 1738 and 1738.2. The special examination further disclosed that Freeman had  
24 altered bank account statements to cover up the unauthorized diversions and/or disbursements of  
25 trust funds in violation of Financial Code section 17414(a)(2).

26 7. The special examination also revealed that the unauthorized diversions and  
27 disbursements of trust funds described in paragraph 6 above had caused a shortage of at least  
28 \$435,000.00 to exist in the trust account of Piron Escrow in violation of California Code of

1 Regulations, title 10, section 1738.1 after taking into account a deposit by Freeman of \$2,945.55 and  
2 an adjustment of \$.03.

3 8. On or about May 31, 2011, Piron, after she became the sole shareholder and president  
4 of Piron Escrow, opened a new trust account (“trust account # 2”) and moved all the trust funds on  
5 deposit in the existing trust account (“trust account # 1”) to trust account # 2, as it appeared that  
6 Freeman continued to have internet access to trust account # 1. The outstanding trust account  
7 shortage of \$435,000.00 necessarily followed the funds into trust account # 2.

8 9. Based upon the findings of the special examination, on or about July 25, 2011,  
9 Petitioner made written demand to Piron Escrow to open a new trust account (“trust account # 3”) in  
10 which all further escrow funds received by Piron Escrow would be deposited so that new escrow  
11 trust funds could remain separate from the trust funds affected by the shortage. Piron Escrow was  
12 specifically instructed that no trust funds received by Piron Escrow on or after July 25, 2011 could  
13 be deposited into trust account # 2, which would necessarily include the transfer of funds from trust  
14 account # 3 to trust account # 2.

15 10. On or about July 25, 2011, Petitioner also made written demand upon Piron Escrow  
16 to cure the \$435,000.00 trust account shortage no later than August 1, 2011. However, Piron Escrow  
17 has failed to cure the shortage and continues in its failure to cure the shortage.

18 11. On or about August 23, 2011, Petitioner learned that Piron Escrow had transferred  
19 trust funds from trust account # 3 to trust account # 2 in direct contravention of Petitioner’s July 25,  
20 2011 letter. A demand was made to Piron Escrow to explain and detail what was occurring between  
21 the two trust accounts since August 23, 2011. On August 26, 2011, Piron Escrow responded by just  
22 stating that funds are being transferred from trust account # 3 to clear checks being presented to trust  
23 account # 2.

24 12. The actions of Piron Escrow in transferring funds from trust account # 3 to cover  
25 checks being presented to trust account # 2 caused a shortage to exist in trust account # 3. The exact  
26 amount of the shortage was unknown at that time as Piron Escrow ignored the demands of Petitioner  
27 to submit an accounting of the funds transferred between the two accounts since such transfers began  
28 on or about August 23, 2011.

1           13.     On or about August 29, 2011, Petitioner made written demand upon Piron Escrow to  
2 cure, no later than August 31, 2011, the shortage (which amount remained unknown to Petitioner), in  
3 trust account # 3 that it caused by transferring funds to trust account # 2. Piron Escrow failed to cure  
4 the shortage and continues in its failure to cure the shortage.

5           14.     On or about August 30, 2011, Petitioner received information that funds in the  
6 amount of \$30,359.07 that were supposed to have been wired into trust account # 3 on August 26,  
7 2011, were wired into trust account # 2, thereby causing a further shortage of \$30,359.07 to exist in  
8 trust account # 3. At that time, Petitioner lacked information to determine if there were sufficient  
9 funds in trust account # 2 to restore the \$30,359.07 deposit to trust account # 3.

10           15.     Petitioner determined that the manner in which Piron Escrow was conducting  
11 business was unsafe and injurious, and on September 2, 2011, issued an Order to Discontinue  
12 Escrow Activities Pursuant to Financial Code Section 17415 to Piron Escrow along with a Demand  
13 For and Order Taking Possession of the Trust Funds and Escrow Records pursuant to Financial Code  
14 Section 17621 and an Order Appointing Conservator pursuant to Financial Code Section 17630.  
15 These orders were necessary for the public protection of the escrow customers of Piron Escrow.

16           16.     Pursuant to the Demand For and Order Taking Possession of the Trust Account(s)  
17 and Escrow Records and Order Appointing Conservator, Peter A. Davidson of the Law Firm of  
18 Ervin Cohen & Jessup LLP ("Conservator") took possession of the known trust account(s) and  
19 escrow records of Piron Escrow on or about September 2, 2011.

20           17.     Pursuant to Financial Code section 17622, Piron Escrow had ten (10) days after the  
21 taking to apply to the superior court for an order to enjoin further proceedings by Petitioner. The ten  
22 days provided by Financial Code section 17622 has expired, and there has been no action  
23 commenced by Piron Escrow to contest the Demand For and Order Taking Possession of the Trust  
24 Account(s) and Escrow Records and Order Appointing Conservator. Piron Escrow has requested an  
25 administrative hearing regarding the Order to Discontinue Escrow Activities.

26           18.     Immediately upon appointment, the Conservator commenced a review of the books  
27 and records of Piron Escrow. The conservator's initial review disclosed that Piron Escrow, despite  
28 Petitioner's demand that all trust funds received on or after July 25, 2011 be deposited into the new

1 trust account (“trust account # 3”), deposited \$4,946,756.16 in trust funds received in August 2011  
2 into trust account # 2. The initial review has also disclosed that Piron Escrow transferred funds from  
3 trust account # 3 to trust account # 2 totaling \$72,838.95 from August 23, 2011 through August 26,  
4 2011. The result of such actions on the part of Piron Escrow was that the trust funds of new escrow  
5 customers were used to cover the trust account shortage affecting the old escrow customers thereby  
6 creating a shortage in the new trust account.

7 19. Prior to Petitioner’s actions described in paragraph 15 above, Piron Escrow had filed  
8 a Proof of Loss Claim with Escrow Agent’s Fidelity Corporation (“EAFC”), the fidelity insurer for  
9 the independent escrow industry. On or about July 29, 2011, EAFC, acknowledged receipt of Piron  
10 Escrow’s proof of loss claim in the amount of \$435,000.00. On or about August 30, 2011, EAFC  
11 and Piron Escrow entered into a settlement agreement whereby EAFC approved \$288,199.09 as a  
12 partial settlement, with \$269,039.14 of that amount to be paid to Piron Escrow as Piron Escrow has a  
13 deductible in the amount of \$19,199.09. EAFC further agreed to continue reviewing the remainder  
14 of the Proof of Loss Claim; \$146,800.88. The Conservator was appointed prior to any payment by  
15 EAFC. Accordingly, EAFC and the Conservator entered into an addendum to be effective on or  
16 about September 6, 2011 wherein payment of the \$269,039.14 was made to the Conservator on  
17 behalf of Piron Escrow. There remains a trust account shortage in the amount of at least  
18 \$165,960.86 after payment of the funds from EAFC, which includes the \$19,199.09 deductible Piron  
19 Escrow has yet to remit.

20 20. The Conservator has filed a claim with three surety bond companies that issued surety  
21 bonds to Piron Escrow for the periods of February 22, 2008 through February 21, 2011, February 22,  
22 2011 through July 14, 2011 and July 14, 2011 through to the present in the amount of \$25,000.00  
23 each. The surety company for the bond issued for the period of July 14, 2011 through to the present  
24 has indicated that it will tender the full amount of the bond, \$25,000.00, to the Conservator. The  
25 remaining two insurance companies have not agreed to pay any amount under the surety bonds nor  
26 indicated that they will pay in the future. The expenses of the conservatorship may exceed the  
27 amount potentially recoverable under these surety bonds.

28 21. Piron Escrow has at least two accounts at City National Bank (accounts nos.

1 \*\*\*\*\*7172 and \*\*\*\*\*0594), which contained funds totaling \$47,278.74 as of August 31, 2011.  
2 Bank records disclose that those funds represent monies that came from trust account #'s 2 and 3 in  
3 the form of escrow fees that should not have been taken by Piron Escrow given the trust account  
4 shortage that existed at the time such escrow fees were drawn.

5 22. It was determined that a partial distribution was necessary to assist in the closure of  
6 the pending escrows. It was further determined that an 80% distribution could be made without  
7 jeopardizing the administration of the remainder of the estate. Accordingly, on or about September  
8 22, 2011, the Conservator began making an 80% distribution to the trust funds claimants.

9 23. There remains much additional work that needs to be accomplished before this matter  
10 can be concluded, including obtaining the remaining documentary evidence to satisfy EAFC's  
11 questions regarding the outstanding portion of the Proof of Loss Claim, dealing with and possibly  
12 negotiating with EAFC concerning the remaining Proof of Loss Claim, settling or possibly litigating  
13 the remaining Proof of Loss Claim, disbursing any recovered funds, dealing with any unclaimed  
14 funds, and making arrangements for the maintenance of the escrow files for the required statutory  
15 period.

16 24. On review of Piron Escrow's books and records and assets, Petitioner has concluded  
17 that it would be futile to proceed further under a conservatorship.

18 24. Petitioner believes that a receivership is the only feasible manner in which to pursue  
19 the avenues necessary to bring this matter to a conclusion. Those avenues include moving forward  
20 with the remaining Proof of Loss Claim with EAFC and otherwise restoring the trust account to the  
21 extent feasible, distributing trust monies, pursuing the surety bond claims. A receivership would  
22 allow the receiver to obtain banking records he might not otherwise have access to which are  
23 necessary to proving the remaining EAFC Proof of Loss Claim and insufficient assets currently exist  
24 to pursue these necessary avenues.

25 25. Pursuant to Financial Code section 17636, the Petitioner is authorized to petition the  
26 superior court for the appointment of a receiver to wind up the affairs of a licensee after having taken  
27 possession of the licensee.

28 26. The Petitioner submits that the appointment of a limited receiver by this Court over

1 Piron Escrow is necessary to properly wind up the trust account affairs of Piron Escrow and to  
2 provide the greatest protection possible to the customers of Piron Escrow. The Petitioner submits  
3 that a situation exists wherein irreparable harm will be suffered by the public unless and until a  
4 receiver is appointed to wind up the trust account affairs of Piron Escrow.

5 Wherefore, the Petitioner prays:

6 A. This Court issue an order naming Peter A. Davidson as the receiver over the escrow  
7 trust funds of Piron Escrow, including, but not limited to, the trust funds currently in the possession  
8 of Peter A. Davidson in his capacity as Conservator, any indemnity funds paid or to be paid by  
9 Escrow Agents' Fidelity Corporation, any surety bond claims or funds, the funds in City National  
10 Bank accounts referred to in paragraph 21 above, and all bank and escrow records of Piron Escrow  
11 (the "trust property"), whether directly or indirectly, owned beneficially or otherwise by, or in the  
12 possession, custody or control of Piron Escrow and/or Piron, or to which Piron Escrow has any right  
13 of possession, custody or control, irrespective of whomsoever holds such trust property, in order to  
14 obtain an adequate accounting of Piron Escrow's trust property and trust liabilities; secure a  
15 marshaling of such property; and to forthwith begin winding up and liquidating the trust property  
16 affairs of Piron Escrow in accord with the provisions of the California Escrow Law, and for said  
17 order appointing such receiver to further provide that:

18 (1) The receiver prior to entry upon the duties described herein, take an oath to faithfully  
19 perform the duties of a receiver and to observe all of the instructions of this Court;

20 (2) The receiver is authorized, empowered and directed:

21 (a) to review, observe, discover and make notes regarding all the trust property of, or in  
22 the possession of Piron Escrow, wherever situated, including all trust accounts of Piron Escrow in  
23 financial depository institutions, and of any other trust property in which Piron Escrow has an  
24 interest regardless by whom it may be held on an ongoing basis pursuant to this Court's order;

25 (b) To undertake an independent review into the financial condition of the trust property  
26 and escrow transactions of Piron Escrow and render a report within 90 days reflecting the existence  
27 and value of all trust property subject to the review, observation and/or discovery by the receiver and  
28 of the extent of the trust liabilities, both those claimed by others to exist and those which the receiver

1 believes to be the legal trust obligations of Piron Escrow, and any further information the receiver  
2 believes may assist in an equitable disposition of this matter, and to include in its report the  
3 receiver's opinion regarding the ability of Piron Escrow to meet its trust obligations, and his  
4 recommendation regarding the best method of distributing the trust property to the owners thereof;

5 (c) To retain and employ such attorney(s) to assist, advise and represent the receiver in  
6 the performance of his duties and responsibilities as the Court may approve upon written application  
7 of the receiver;

8 (d) To retain and employ LoBuglio & Sigman, CPA's, his accountants, and such other  
9 persons, clerical and professional, to perform such tasks as may be necessary to aid the receiver in  
10 the performance of his duties and responsibilities;

11 (e) To be the sole signator on all trust bank accounts of Piron Escrow;

12 (f) To bring such proceedings as are necessary to enforce the provisions hereof,  
13 including the issuance of subpoenas to compel testimony or production of documents;

14 (g) To bring such actions as are necessary to modify the provisions hereof;

15 (h) To make such payments and disbursements from the trust property so taken into  
16 custody, control, and possession of the receiver or otherwise received by him, as may be necessary  
17 and advisable in discharging his duties as receiver;

18 (i) To preserve trust property;

19 (j) To institute, prosecute, defend, compromise, intervene and become a party either in  
20 his own name or in the name of Piron Escrow to such suits, actions, or proceedings as may be  
21 necessary for the protection, maintenance, recoupment or preservation of the trust property of Piron  
22 Escrow and its escrow parties, with prior court approval; and

23 (k) To divert, take possession of and secure all mail of Piron Escrow, in order to screen  
24 such mail for mail relating to the trust property, returning non-trust property mail to Piron, and to  
25 effect a change in the rights to use any and all post office boxes and other mail collection facilities  
26 used by Piron Escrow.

27 B. The receiver is hereby vested with, and is authorized, directed, and empowered to  
28 exercise, all of the powers of Piron Escrow's officers and directors or persons who exercise similar



1 powers and perform similar duties, with respect to the trust property, whose authority is hereby  
2 suspended; and Piron Escrow's officers, agents, employees, representatives, directors, successors in  
3 interest, attorneys in fact and all persons acting in the concert or participating with them, are hereby  
4 divested of, restrained and barred from exercising any of the powers herein vested in this receiver.

5 C. Any local, state or federal law enforcement and regulatory agency having jurisdiction  
6 over matters relating to Piron Escrow's business shall be entitled to review, without exception, all  
7 reports of the receiver and all books, records, and files on Piron Escrow in the possession of the  
8 receiver at any time during normal business hours, and to make any abstract or copies of said  
9 documents as it desires.

10 D. Piron Escrow and its respective officers, directors, agents, servants, employees,  
11 successors, assigns, affiliates, and other persons or entities under their control and all persons or  
12 entities in active concert or participation with them, and each of them, shall turn over to the receiver  
13 all records, documentation, charts and/or descriptive material, which relate, directly or indirectly, to  
14 the trust property of Piron Escrow or otherwise belonging to its escrow parties, now held by Piron  
15 Escrow or any of them.

16 E. This Court will retain jurisdiction of this action in order to implement and carry out  
17 the terms of all orders and decrees that may be entered herein or to entertain any suitable application  
18 or motion by Petitioner and/or receiver for additional relief or modification of any order made herein  
19 within the jurisdiction of this Court.

20 F. During the pendency of this receivership, except by leave of court, all parties to  
21 escrows held by Piron Escrow and any other persons seeking relief of any kind, in law or in equity,  
22 from Piron Escrow relating to the trust property, and all others acting on behalf of any such escrow  
23 parties or other persons including sheriffs, marshals, servants, agents and employees are restrained  
24 from:

- 25 (1) commencing, prosecuting, continuing or enforcing any suit or proceeding;  
26 (2) executing or issuing or causing the execution or issuance of any court attachment,  
27 subpoena, replevin, execution or other process for the purpose of impounding or taking possession of  
28 or interfering with or creating or enforcing a lien upon any property owned or in the possession of

1 Piron Escrow or its affiliates, or the receiver appointed herein, where ever situated;  
2 (3) taking, retaining, retaking or attempting to retake possession of any trust property;  
3 (4) withholding or diverting any trust property obligation;  
4 (5) doing any act or other thing whatsoever to interfere with the possession of or  
5 management by the receiver herein and of the trust property, controlled by or in the possession of  
6 Piron Escrow or to in any way interfere with said receiver or to interfere in any manner during the  
7 pendency of this proceeding with the exclusive jurisdiction of this Court over the Piron Escrow trust  
8 property.

9 G. At such time as the financial condition of the trust property has been ascertained by  
10 the receiver, and at such time as the trust property has been marshaled and all trust liabilities have  
11 been determined, the receiver shall file an application with the Court for disposition of such trust  
12 property. The application shall propose in detail the winding up and the distribution of trust funds.  
13 If necessary, the receiver shall be authorized to propose and carry out a partial distribution, retaining  
14 such funds pending final distribution as are necessary to finance any pertinent litigation or the  
15 remaining operation of the receivership.

16 H. The receiver shall be paid an hourly rate of \$475.00 for his services and shall be  
17 entitled to reimbursement for usual and customary expenses, including out of pocket expenditures on  
18 behalf of the receivership estate, which shall be paid from surety bond proceeds, if any, and then if  
19 insufficient, from the trust funds, and that the State of California shall have no liability whatsoever  
20 for any costs, fees and/or out pocket expenses that may result from such receivership. The receiver  
21 and any professional hired by him shall make application to this Court on a monthly basis for  
22 payment of reasonable fees and expenses incurred by the receiver or such professional, and shall be  
23 entitled to payment of said fees and expenses on account as hereinafter provided, including payment  
24 of all reasonable fees and expenses incurred by the receiver in his capacity as conservator or any  
25 professional rendering services during the conservatorship from the date of appointment as  
26 conservator through to the date of appointment as receiver, and shall be entitled to payment of said  
27 conservator fees and expenses on account as hereinafter provided. Copies of such applications to the  
28 Court shall be promptly served on all attorneys of record for parties in this action, who shall have ten

1 (10) calendar days following the filing and service of such application to file any objections thereto  
2 with the Court, and serve any such objections by facsimile and mail on the receiver. If no objections  
3 are filed with the Court and served within the ten (10) calendar day period, the receiver shall  
4 thereupon draw funds from the receivership estate sufficient to pay one-hundred percent (100%) of  
5 out-of-pocket expenses and seventy-five percent (75%) of such fees, including all professional fees,  
6 and other expenses such as in office copying and facsimile charges, without further order of the  
7 Court. To the extent the fees and costs requested relate to the Conservator's or his professional's  
8 fees and expenses, one-hundred percent (100%) of said fees and expenses shall be paid. If any  
9 objections are filed, the receiver may draw funds from the receivership estate sufficient to pay any  
10 amounts as to which there are no objections, and the Court will conduct a hearing on any objections  
11 upon motion of the receiver or the objecting party. At such hearing, the compensation of the  
12 receiver or other professional making application, as well as allowable disbursements and expenses,  
13 will be determined by the Court, and the receiver will be directed to draw funds from the  
14 receivership estate to pay one-hundred percent (100%) and seventy-five percent (75%), respectively,  
15 of the amounts so determined by the Court. Notwithstanding such interim monthly payments of fees  
16 and expenses, all fees and expenses shall be submitted to the Court for its approval by a properly  
17 noticed request for fees, stipulation of all parties or the receiver's Final Account and Report. Upon  
18 approval of the fees and expenses of the receiver or other professional, any hold back amounts still  
19 due and owing to the receiver or other professional shall be paid from the receivership estate.

20 I. For an order that the receiver shall not be required to file a bond with the Court in this  
21 matter.

22 Dated: October 6, 2011  
23 Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

24 By \_\_\_\_\_  
25 Judy L. Hartley  
26 Attorney for Petitioner  
27 California Corporations Commissioner  
28