

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, Ste. 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604 Fax: (213) 576-7181  
6 Attorneys for Complainant

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

10  
11 In the Matter of THE CALIFORNIA ) File No.: 963-2210  
CORPORATIONS COMMISSIONER, )  
12 )  
13 Complainant, ) NOTICE AND SUMMARY OF FINDINGS  
14 vs. ) PURSUANT TO CALIFORNIA FINANCIAL  
PRIME WEST ESCROW, INC., ) CODE SECTION 17621  
15 )  
16 Respondent. )  
17 )  
18 )

19 TO: PRIME WEST ESCROW, INC.,  
20 8560 W. Sunset Boulevard, Suite 400  
21 Los Angeles, California 90069

22 CITY NATIONAL BANK  
23 355 S. Grand Ave., Ste 150  
24 Los Angeles, California 90071

25 Please take notice that the California Corporations Commissioner finds:

26 1. On or about March 27, 2009, a special examination of the books and records of Prime  
27 West Escrow, Inc. (“Prime West”) was commenced by the California Corporations Commissioner  
28 (“Commissioner”) after the Commissioner received information from the company that it may have  
a trust account shortage. The special examination revealed the following:

1 a. Commencing on or about March 26, 2007, and continuing through at least March 23,  
2 2009, Prime West made unauthorized disbursements of trust funds to its president, shareholder and  
3 escrow manager/escrow officer of its main office, Alejandro Martinez aka Alex Martinez  
4 (Martinez”), or on behalf of Martinez by way of his company Martinez Escrow Consulting, Inc. and  
5 otherwise or to his domestic partner, Chris Ewen, or on his behalf, totaling at least \$1,211,597.34 in  
6 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
7 sections 1738 and 1738.2.

8 b. The unauthorized disbursements described in paragraph a. above caused a shortage of  
9 at least \$1,211,597.34 to exist in the main office trust account of Prime West in violation of  
10 California Code of Regulations, title 10, section 1738.1.

11 3. On or about July 13, 2009, Prime West submitted a proof of loss claim to Escrow  
12 Agent’s Fidelity Corporation (“EAFC”) in the amount of \$1,548,582.76, which claim was  
13 subsequently reduced by Prime West to \$1,175,044.33.

14 4. On or about November 11, 2009, EAFC and Prime West entered into a settlement  
15 agreement whereby Prime West agreed to accept EAFC’s offer to compromise in the amount of  
16 \$750,000.00. On or about December 12, 2009, pursuant to the settlement agreement entered into  
17 between EAFC and Prime West, EAFC replaced \$750,000.00 of the shortage.

18 5. The settlement agreement entered into between EAFC and Prime West conditioned  
19 the indemnity payment to Prime West on Prime West’s agreement that Prime West’s certified public  
20 accountant “shall effect the payment of its trust obligations as stated herein either directly by or  
21 under his supervision and who shall be a co-signer for the trust account in which the EAFC  
22 indemnity shall be deposited, and who shall co-sign the trust account checks issued to disburse the  
23 Settlement Amount indemnity . . .” Prime West’s certified public accountant is not authorized  
24 under the California Escrow Law to sign on the trust account(s) as he has not been properly reported  
25 to the Department of Corporations, nor has a background check been performed, including  
26 fingerprinting, as required by the Escrow Law before a person can have access to trust funds.

27 6. On January 4, 2010, Petitioner determined that the manner in which Prime West was  
28 conducting business was unsafe and injurious, and issued an Order to Discontinue Escrow Activities

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Pursuant to Financial Code Section 17415 to Prime West.

7. While Prime West has deposited further funds into the trust account to cure the shortage; a trust account shortage remains, which the Commissioner believes is in the amount of at least \$357,647.34.

8. California Financial Code section 17621 provides in pertinent part:

Whenever it appears to the Commissioner that any escrow agent subject to this division:

...  
(b) Is conducting escrow business in an unsafe and unauthorized manner;

(c) Has violated its charter or any law of the State of California;

...  
the commissioner shall dispatch a written notice and summary of findings, as referred to in Section 17415, to the principal officer of the escrow agent involved or to its manager of record; and such escrow agent shall be afforded a reasonable opportunity to comply or otherwise effect such remedy as the commissioner may deem acceptable. However, should the escrow agent so notified fail to comply within five days of receipt of the notice, or as soon as it appears to the commissioner that no compliance is possible, or in the event prompt delivery of the prescribed written notice is impossible, the commissioner may forthwith take possession of the property and business of such escrow agent and retain possession until such escrow agent resumes business or its affairs be finally liquidated as provided in this chapter. The escrow agent, with the consent of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

9. Based upon the foregoing, the Commissioner finds that Prime West has violated Financial Code section 17414 and California Code of Regulations, title 10, sections 1738, 1738.1 and 1738.2, and is conducting escrow business in such an unsafe and unauthorized manner, that no compliance is possible.

Dated: January 13, 2010  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

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