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California Corporations Commissioner
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8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of THE) File No.: 963-0573
12 CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION IN SUPPORT OF ISSUANCE
14 Complainant,) OF ORDER IMPOSING PENALTIES
15 vs.) PURSUANT TO CALIFORNIA FINANCIAL
16 ROYAL CREST ESCROW, INC.,) CODE SECTION 17408 AND REVOKING
17 Respondent.) CALIFORNIA ESCROW LICENSE
18)
19)

20 Complainant Preston DuFuchard, in his capacity as the California Corporations
21 Commissioner ("Commissioner" or "Complainant"), is informed and believes and based upon such
22 information and belief, alleges and charges as follows:

23 I.

- 24 1. Royal Crest Escrow Co. ("Respondent" or "Royal Crest") is an escrow agent licensed by the
25 California Corporations Commissioner pursuant to the Escrow Law of the State of California
26 (California Financial Code sections 17000 *et seq.*).
27 2. Royal Crest currently holds escrow agent's license number 963-0573 with its principal place
28 of business located at 36 Malaga Cove Plaza, Suite 101, Palos Verdes, California, 90274.
3. Kathleen M. South is the president and owner of Royal Crest.

II.

4. Section 17405 of the California Financial Code provides:

(a) The business, accounts and records of every person performing as an escrow agent, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. . . .

(b) Any person subject to this division shall, upon request, exhibit and allow inspection and copying of any books and records by the commissioner or his or her authorized representative.

5. In attempting to schedule with Respondent a regulatory examination pursuant to Financial Code section 17405, the Commissioner’s examiners have left telephone messages with Respondent’s president, Kathleen M. South, on at least four different dates in 2009, including February 27, March 19, April 1, and June 30. Respondent has not responded to any of the phone messages left by the Commissioner’s examiners.

6. When the Commissioner’s examiners traveled to Respondent’s licensed place of business on two different occasions, on March 19, 2009 and October 12, 2010, they found that Respondent’s office appeared to be open but nobody was present to receive them.

7. The Commissioner finds that Respondent’s repeated failure or refusal to allow the Commissioner’s authorized representatives to inspect and examine its business books and records constitutes a violation of section 17405 of the Financial Code.

8. Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to file an annual report containing annual audited financial statements (“audit report”) within one hundred and five (105) days after the close of the licensee’s fiscal year.

9. On or about May 3, 2010, the Commissioner notified Respondent in writing that its audit report for the fiscal year ending on June 30, 2010 was due on October 15, 2010.

10. Respondent failed to timely file its audit report by October 15, 2010.

11. On or about October 21, 2010, the Commissioner sent a follow-up letter to Respondent demanding that the late audit report be filed within 10 days. Respondent was expressly notified in the letter that failure to file to the audit report could result in assessment of penalties, a special examination, and/or license suspension or revocation.

12. Respondent has yet to file the audit report for the fiscal year ended June 30, 2010, and the

1 report is now more than 100 days overdue.

2 13. Moreover, the Commissioner notes that Respondent was previously assessed penalties
3 totaling \$13,200 for failure to file its 2007 Audit Report until 132 days after it was due. Although
4 Respondent agreed to pay the penalty after enforcement action was commenced, Respondent again
5 failed to timely file its audit report due in 2009.

6 III.

7 14. Financial Code Section 17408, subdivision (b), provides as follows:

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

12 15. Since Respondent has failed to timely file its annual audit report for its fiscal year ended June
13 30, 2010, as required by Financial Code section 17406, the Commissioner hereby imposes upon
14 Respondent, by order, penalties incurred to date in the sum of \$53,000, and continuing to accrue at
15 the rate of \$500 each day hereafter until the audit report is filed, pursuant to Financial Code section
16 17408, subdivision (b).

17 IV.

18 16. Financial Code section 17602.5 provides, in pertinent part, as follows:

19 If any licensed escrow agent fails to make any reports required by law or by the
20 commissioner within ten (10) days from the date designated for the making of the reports, or
21 within any extension of time granted by the commissioner, . . . such failure shall constitute
22 grounds for the suspension or revocation of the license held by such escrow agent.

23 17. Financial Code section 17608, subdivision (b), provides in pertinent part:

24 The commissioner may, after notice and a reasonable opportunity to be heard, suspend or
25 revoke any license if [s]he finds that:

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

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V.

The Commissioner finds that, by reason of the foregoing, Respondent Royal Crest Escrow, Inc. has violated sections 17405 and 17406 of the California Financial Code, which constitutes grounds for the revocation of its escrow agent’s license.

WHEREFORE, IT IS PRAYED that the Respondent's escrow agent’s license be revoked.

Dated: January 31, 2011
Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner