

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING
Assistant Chief Counsel
3 MIRANDA LEKANDER (State Bar No. 210082)
Senior Counsel
4 Department of Business Oversight
1515 K Street, Suite 200
5 Sacramento, California 95814
Telephone: (916) 322-8730
6 Facsimile: (916) 445-6985

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) Escrow License No.: 963-0748
12)
13 THE COMMISSIONER OF BUSINESS) ACCUSATION IN SUPPORT OF ORDER
OVERSIGHT,) REVOKING ESCROW AGENT’S LICENSE
14) PURSUANT TO FINANCIAL CODE
Complainant,) SECTION 17608
15)
16 v.)
17 SC ESCROW SERVICES, INC.,)
18)
Respondent.)
19)
20)

21 The Complainant, the Commissioner of Business Oversight (Commissioner), is informed and
22 believes and, based upon such information and belief, alleges and charges as follows:

23 I.

24 INTRODUCTION

- 25 1. SC Escrow Services, Inc. (SC Escrow) is an escrow agent first licensed on July 26, 1978 by
26 the Commissioner pursuant to the California Escrow Law (Fin. Code, § 17000 et seq.) (Escrow Law).
27 2. SC Escrow is an active California corporation with its principal place of business located at
28 1901 Pacific Coast Highway, Hermosa Beach, California, 90254.

1 3. At all relevant times, Nancy Siqueiros (Siqueiros) has been SC Escrow’s president, secretary,
2 sole stockholder, and registered agent for service of process.

3 4. The Commissioner now seeks to revoke the escrow agent’s license issued to SC Escrow based
4 on multiple and repeated violations of the Escrow Law, as set forth more fully below.

5 **II.**

6 **STATEMENT OF FACTS**

7 A. Prior Enforcement Action

8 5. SC Escrow failed to timely file with the Commissioner its annual report containing audited
9 financial statements for the year ended September 30, 2009 within 105 days after the close of the
10 licensee’s applicable calendar or fiscal year, as required by Financial Code section 17406.¹ This
11 report was due on January 15, 2010 but was not filed until March 3, 2012, subjecting the licensee to
12 penalties pursuant to section 17408.

13 6. On or about April 8, 2010, the Commissioner sent to SC Escrow a regulatory letter explaining
14 the findings of a regulatory examination commenced on February 8, 2008. The letter notified SC
15 Escrow that a written response was required within 30 days to inform the Commissioner of corrective
16 actions taken to address the multiple violations cited in the letter. SC Escrow failed to submit a
17 written report responding to the Commissioner’s April 8, 2010 regulatory examination letter within
18 30 days, subjecting the licensee to additional penalties pursuant section 17408.

19 7. SC Escrow subsequently failed to timely file with the Commissioner its annual report
20 containing audited financial statements for the year ended September 30, 2010, in violation of section
21 17406. This report was due on January 18, 2011 but was not filed until June 24, 2011. Accordingly,
22 the Commissioner assessed penalties for this violation pursuant to section 17408.

23 8. On May 11, 2011, the Commissioner issued to SC Escrow an Accusation in Support of: (1)
24 Order Suspending Escrow Agent’s License Pursuant to Financial Code Section 17608; and, (2) Order
25 Imposing Penalties Pursuant to Financial Code Section 17408 (“Accusation”). SC Escrow timely
26 requested an administrative hearing in response to the Accusation.

27 _____
28 ¹ All further statutory references are to the Financial Code unless otherwise indicated.

1 9. Prior to the hearing on the Accusation, SC Escrow's annual report containing audited
2 financial statements for the year ending September 30, 2011 became due on January 17, 2012. This
3 was not filed with the Commissioner until February 6, 2012, or 20 days late.

4 10. On March 14, 2012, in lieu of proceeding to hearing on the Accusation, the Commissioner
5 entered into a Settlement Agreement with SC Escrow, whereby the licensee agreed to: (1) pay
6 penalties of \$20,000.00; (2) file a complete and satisfactory response to the Commissioner's April 8,
7 2010 regulatory examination letter; and, (3) stipulate to a seven-day license suspension in effect from
8 April 4, 2012 to April 10, 2012.

9 B. Subsequent and Ongoing Violations of the Escrow Law

10 11. On January 22, 2013, less than a year after settling the prior enforcement action, SC Escrow
11 filed its annual report containing audited financial statements for the year ended September 30, 2012,
12 seven days late. This report disclosed a liquid asset deficiency in the amount of \$85,736.00, in
13 violation of section 17210, which requires licensees to maintain, at all times, liquid assets in the
14 amount of at least \$25,000.00 and a tangible net worth of at least \$50,000.00.

15 12. On or about May 1, 2013, the Commissioner sent a regulatory examination letter to SC
16 Escrow citing, among other violations, the liquid asset deficiency noted during the regular
17 examination that had commenced on March 6, 2012. The regulatory examination letter advised:

18 You are hereby directed to discontinue the practices outlined in this letter. You are required
19 to submit a report to this Department within (30) days from the date of this letter that
20 describes in detail the corrective actions being taken by your company to avoid recurrence of
21 these practices. The penalties for failure to file the report by the due date is \$100 per day for
the first five days the report is overdue and \$500 per day thereafter for each day the report is
overdue in accordance with the provisions of Financial Code Section 17408.

22 13. On or about July 15, 2013, after not receiving a report of corrective actions from SC Escrow,
23 the Commissioner sent by certified mail a 15-day demand letter warning SC Escrow that penalties
24 would accrue pursuant to section 17408 for each day the licensee failed to provide a written response
25 to the May 1, 2013 regulatory examination letter. This letter stated:

26 Your attention is directed to Section 17408 of the Financial Code, which provides for the
27 assessment of penalties for each day that a requested report or information is not submitted.
28 The penalties are assessed at \$100 per day for the first five days and \$500 per day for each
day thereafter.

1 14. On or about October 21, 2013, the Commissioner sent by certified mail a written demand to
2 SC Escrow to provide within 30 days proof of correction of the liquid asset deficiency that was
3 disclosed in the annual report containing audited financial statements for the year ended September
4 30, 2012, which deficiency was also previously cited in the Commissioner's regulatory examination
5 letter dated May 1, 2013. This letter advised SC Escrow that penalties of \$39,500.00 had accrued
6 since the July 15, 2013 demand letter and that daily penalties would continue to accrue pursuant to
7 section 17408 until corrective action was taken.

8 15. Subsequently, SC Escrow failed to file its annual report containing audited financial
9 statements for the year ended September 30, 2013, which was due on January 15, 2014.

10 16. On or about March 24, 2014, the Commissioner sent by certified mail to SC Escrow a 10-day
11 demand letter in connection with the non-filing of the annual report containing audited financial
12 statements for the year ended September 30, 2013, which warned of the assessment of penalties
13 pursuant to section 17408 and possible license suspension or revocation.

14 17. Most recently, SC Escrow failed to file its annual report containing audited financial
15 statements for the year ended September 30, 2014, which was due on January 15, 2015.

16 18. On or about January 21, 2015, the Commissioner sent by certified mail to SC Escrow a 10-
17 day demand letter in connection with the non-filing of the annual report containing audited financial
18 statements for the year ended September 30, 2014, which warned of the assessment of penalties
19 pursuant to section 17408 and possible license suspension or revocation.

20 19. On March 23, 2015, the Commissioner's examiner appeared at the main office of SC Escrow
21 to commence a special examination to determine if the licensee's books and records were in
22 compliance with California Code of Regulations, title 10, section 1732, and whether the licensee met
23 the minimum financial requirements of Financial Code section 17210.

24 20. The Commissioner's examiner presented at SC Escrow's main office three days in a row -- on
25 March 23, 24, and 25, 2015. On each occasion, SC Escrow's president, Siqueiros, appeared at the
26 office several hours late or surreptitiously exited the office early from the back door. When the
27 Commissioner's examiner asked Siqueiros to provide a current trial balance or recent bank
28 reconciliation for the trust and general accounts, Siqueiros informed that the last trust account bank

1 reconciliation had probably been completed in December 2014 and that hard copies were not
2 available.

3 21. To date, SC Escrow has failed to provide the Commissioner with the books and records that
4 were requested by the Commissioner's examiner during the March 2015 special examination.

5 22. As a result of the March 2015 special examination, the Commissioner has determined that SC
6 Escrow has committed the following violations:

7 a. Failing to maintain books, records, and accounts in accordance with generally
8 accepted accounting principles and good business practices, in violation of California Code of
9 Regulations, title 10, section 1732;

10 b. Failing to prepare trust account reconciliation on a monthly basis and currently
11 maintain reports for the trust account, in violation of California Code of Regulations, title 10, section
12 1732.2;

13 c. Failing to prepare general account reconciliation on a monthly basis, in violation of
14 California Code of Regulations, title 10, section 1732.3; and,

15 d. Failing to keep and use in its business, books, accounts, and records which will
16 properly enable the Commissioner to determine whether the escrow functions performed by the
17 licensee comply with the provisions of the Escrow Law, in violation of Financial Code section 17404.

18 **III.**

19 **VIOLATIONS OF THE ESCROW LAW**

20 **A. Failure to File Annual Reports in Violation of Section 17406**

21 23. Section 17406 provides in pertinent part:

22 (a) Each licensee shall submit to the commissioner, at the licensee's
23 own expense, an audit report containing audited financial statements
24 covering the calendar year or, if the licensee has an established fiscal
25 year, then for that fiscal year, within 105 days after the close of the
26 calendar or fiscal year, as applicable. At that time, each licensee shall
also file additional relevant information as the commissioner may
require.

27 . . . (e) A licensee shall make other special reports to the
28 commissioner as the commissioner may from time to time require.

1 24. SC Escrow’s audited annual report for the year ended September 30, 2013, due on January 15,
2 2014, and the year ended September 30, 2014, due on January 15, 2015, remain outstanding, in
3 violation of section 17406.

4 B. Failure to Make Reports Required by Law in Violation of Section 17602.5

5 25. Section 17602.5 provides in pertinent part as follows:

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

10 26. On May 1, 2013, the Commissioner sent a regulatory examination letter to SC Escrow
11 requesting that the licensee submit a written response within 30 days. On July 15, 2013, a follow-up
12 demand letter was sent to SC Escrow via certified mail.

13 27. On October 21, 2013, the Commissioner sent a letter to SC Escrow demanding that within 30
14 days the licensee provide a report of correction of its liquid asset deficiency in compliance with
15 section 17210.

16 28. On March 24, 2014, the Commissioner sent by certified mail to SC Escrow a 10-day demand
17 letter in connection with the non-filing of the annual report containing audited financial statements
18 for the year ended September 30, 2013.

19 29. On January 21, 2015, the Commissioner sent by certified mail to SC Escrow a 10-day demand
20 letter in connection with the non-filing of the annual report containing audited financial statements
21 for the year ended September 30, 2014.

22 30. To date, SC Escrow has failed to make all of the above-referenced reports required by law or
23 by the Commissioner within 10 days from the date designated for the making of the reports in
24 violation of section 17602.5, which provision further provides that such failure shall constitute
25 grounds for suspension or revocation of the escrow agent’s license.

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1 C. Accrual of Penalties Pursuant to Section 17408

2 31. Section 17408 provides in pertinent part:

3 (a) If any person subject to this division fails to make any report
4 required by law or by the commissioner, the commissioner may
5 immediately cause the books, records, papers, and affairs of said person
to be thoroughly examined.

6 (b) The commissioner may impose, by order, a penalty on any person
7 who fails, within the time specified in any written demand of the
8 commissioner, (1) to make and file with the commissioner any report
9 required by law or requested by the commissioner, or (2) to furnish any
10 material information required by the commissioner to be included in
11 the report. The amount of the penalty may not exceed one hundred
dollars (\$100) for each day for the first five days the report or
information is overdue, and thereafter may not exceed five hundred
dollars (\$500) for each day the report or information is overdue.

12 32. Pursuant to the filing requirement set forth in section 17406, SC Escrow is subject to a penalty
13 of up to \$100 for each of the first five days that its annual audit report was overdue and a penalty of
14 \$500 for each day thereafter, and continuing to accrue until the report is received.

15 33. To date, SC Escrow has accrued penalties in the sum of \$217,500.00; and, additional penalties
16 of \$500.00 will accrue for each day hereafter that the overdue annual reports remain outstanding.

17 D. Failure to Meet Minimum Financial Requirements in Violation of Section 17210

18 34. Section 17210 provides in pertinent part:

19 (a) An escrow agent licensed on or after January 1, 1986,
20 shall maintain at all times a tangible net worth of fifty thousand
21 dollars (\$50,000), including liquid assets of at least twenty-five
thousand dollars (\$25,000) in excess of current liabilities.

22 35. Pursuant to section 17210, all licensees under the Escrow Law are required to maintain, at all
23 times, a tangible net worth of at least \$50,000.00, including liquid assets of at least \$25,000.00 in
24 excess of current liabilities.

25 36. The Commissioner discovered during the regulatory examination that commenced on March
26 6, 2012 that SC Escrow's records disclosed a liquid asset deficiency of \$39,637.59. A liquid asset
27 deficiency of \$85,736.00 was further documented in SC Escrow's annual report containing audited
28

1 financial statements for the year ended September 30, 2012, which was filed seven days late on
2 January 22, 2013.

3 37. SC Escrow has failed to respond to the Commissioner's written demands to provide proof of
4 correction of the liquid asset deficiency. And, due to SC Escrow's failure to keep adequate books
5 and records in violation of section 17404, the Commissioner's examiner was unable to ascertain the
6 licensee's compliance with section 17210 by conducting the special examination that took place in
7 March 2015.

8 E. Trust Account Reconciliations and Daily Ledgers Not Prepared Current

9 38. California Code of Regulations, title 10, section 1732 provides:

10 An escrow agent shall maintain its books, records and accounts in
11 accordance with generally accepted accounting principles and good
12 business practice.

13 39. California Code of Regulations, title 10, section 1732.2 provides in part:

14 (a) An escrow agent shall establish and maintain currently the
15 following books with reference to its escrow accounts:

16 (1) Escrow ledger containing a separate ledger sheet for each escrow;

17 (2) Escrow liability controlling account;

18 (3) Cash receipt and disbursement journal or a file containing copies of
19 all receipts and checks and/or check stubs of checks issued by the
20 escrow agent as a medium of posting to the records referred to in
21 subsections (1) and (2) in which case adding machine tapes of totals of
22 receipts and checks shall be retained. The records referred to in
23 subsections (1) and (2) shall be reconciled at least once each month
24 with the bank statements of the "trust" or "escrow" account. The
25 records referred to in subsection (1) shall be reconciled at least once
26 each week with the escrow liability controlling account referred to in
27 subsection (2).

28 ...

39. California Code of Regulations, title 10, section 1732.3 provides:

An escrow agent shall establish and maintain currently the following
books with reference to its general accounts:

1 (a) General ledger reflecting the assets, liabilities, capital, income and
2 expense of the business, in accordance with generally accepted
3 accounting principles;

4 (b) Cash receipt and disbursement journal.

5 The bank accounts contained in the general ledger shall be reconciled at
6 least once each month with the bank statements of the general accounts.

7 41. The Commissioner's March 2015 special examination was to include review of SC Escrow's
8 most current escrow log book, the trust account bank reconciliation, the escrow ledgers and trial
9 balance, the trial balance for the general account, the profit and loss statement, and the general ledger
10 and general account bank reconciliation.

11 42. The Commissioner's Examiner requested from the licensee, but was not provided, several
12 books and records that were necessary to conduct this examination, including the trust account
13 reconciliations and daily ledger reports for January, February and March of 2015. Siqueiros told the
14 Commissioner's examiner that the last time trust account reconciliations were completed was
15 probably December 2014.

16 43. SC Escrow's failure to prepare current trust reconciliations and daily ledgers is in violation of
17 California Code of Regulations, title 10, sections 1730, 1732.2, and 1732.3.

18 F. Failure to Keep Books and Records in Compliance with Section 17404

19 44. Section 17404 provides:

20 Every person subject to this division shall keep and use in its business,
21 books, accounts, and records which will properly enable the commissioner
22 to determine whether the escrow functions performed by such person
23 comply with the provisions of this division and with all rules made by the
24 commissioner under this division.

25 45. During the special examination conducted by the Commissioner in March
26 2015, it was discovered that SC Escrow failed to prepare the current financial reports
27 for its general and escrow accounts that are required by California Code of
28 Regulations, title 10, sections 1732.2 and 1732.2.

46. SC Escrow has failed to keep and use in its business books, accounts, and
records necessary to allow the Commissioner to determine whether the escrow

1 functions performed by the licensee comply with the Escrow Law.

2 **IV.**

3 **COMMISSIONER’S REVOCATION AUTHORITY**

4 47. Section 17608 provides in relevant part:

5 The commissioner may, after notice and a reasonable opportunity to be
6 heard, suspend or revoke any license if he finds that:

7 . . .

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

11 **V.**

12 **CONCLUSION**

13 48. The Commissioner finds that, by reason of the foregoing, SC Escrow Services, Inc. has
14 violated Financial Code sections 17406, 17602.5, 17408, 17210, and 17404 and California Code of
15 Regulations, title 10, sections 1732, 1732.2, and 1732.2 such that it is in the best interest of the public
16 to revoke the escrow agent’s license issued to SC Escrow Services, Inc. pursuant to Financial Code
17 section 17608.

18 WHEREFORE, IT IS PRAYED that the escrow agent’s license issued to SC Escrow Services,
19 Inc. be revoked pursuant to Financial Code section 17608.

20 DATED: May 11, 2015
21 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

22 By _____
23 MIRANDA LEKANDER
24 Senior Counsel
25 Enforcement Division