

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 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
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6 Attorneys for Complainant

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

10
11 In the Matter of the Accusation of THE) File No.: 963-2415
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
15 vs.)
16 WEST AMERICAN ESCROW, INC.,)
17 Respondent.)
18 _____)

19 The Complainant is informed and believes and based upon such information and belief,
20 alleges and charges as follows:

21 I

22 West American Escrow, Inc. (“Respondent” or “West”) is an escrow agent licensed by the
23 California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow
24 Law of the State of California (California Financial Code Section 17000 et seq.). Respondent has
25 been licensed as an escrow agent since March 7, 2007.

26 II

27 Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to
28 file an annual audit report containing audited financial statements (“audit report”) within one

1 hundred and five (105) days after the close of their fiscal year. Respondent’s fiscal year end is
2 February 28. Accordingly, Respondent is required to file its audit report on or before June 15 of
3 each year.

4 On or about January 11, 2010, Complainant notified Respondent in writing that its audit
5 report for the period ending February 28, 2010 was due June 15, 2010. Respondent failed to file the
6 2010 audit report by June 15, 2010.

7 On or about June 21, 2010, a follow up letter was sent to Respondent demanding the 2010
8 audit report be filed no later than July 1, 2009, and notifying Respondent that failure to file the 2010
9 audit report by July 1, 2010 would result in the company being assessed penalties in the amount of
10 \$100.00 per day for the first five days and \$500.00 per day for each day thereafter that the 2010
11 audit report was late. The letter further notified Respondent that failure to file the 2010 audit report
12 by July 1, 2010 could also result in a revocation of its license.

13 Respondent has yet to submit the 2010 audit report as required by Financial Code section
14 17406. The 2010 audit report is 213 days late as of the date of this Accusation.

15 III

16 Previously, on or about January 23, 2009, Complainant notified Respondent in writing that
17 its audit report for the period ending February 28, 2009 was due June 15, 2009. Respondent failed to
18 file the 2009 audit report by June 15, 2009.

19 On or about June 29, 2009, a follow up letter was sent to Respondent demanding the 2009
20 audit report be filed no later than July 9, 2009, and notifying Respondent that failure to file the 2009
21 audit report by July 9, 2009 would result in the company being assessed penalties in the amount of
22 \$100.00 per day for the first five days and \$500.00 per day for each day thereafter that the 2009
23 audit report was late. The letter further notified Respondent that failure to file the 2009 audit report
24 by July 9, 2009 could also result in a revocation of its license.

25 Respondent has yet to submit the 2009 audit report as required by Financial Code section
26 17406. The 2010 audit report is 570 days late as of the date of this Accusation.

27 IV

28 Respondent previously failed to timely file its 2008 audit report. Respondent failed to file its

1 2008 audit report until July 7, 2008, which was 21 days late. At that time, the Commissioner sent
2 written notice to Respondent that if future audit reports were not timely filed the Commissioner
3 would assess penalties and possibly take action against the license.

4 V

5 Financial Code section 17602.5 provides in pertinent part as follows:

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

10 VI

11 Pursuant to Financial Code section 17202, all escrow agent licensees are required to maintain
12 a surety bond. The surety bond of Respondent expired on March 10, 2010, and no replacement has
13 been obtained by Respondent.

14 On or about March 11, 2010, the Commissioner issued an Order to Discontinue Escrow
15 Activities pursuant to Financial Code Section 17415 for failure to maintain the required surety bond.
16 This Order was served on Respondent on or about March 15, 2010.

17 Respondent has yet to obtain a proper replacement surety bond in violation of Financial Code
18 section 17202.

19 VII

20 Pursuant to Financial Code section 17210, all licensees under the Escrow Law are required to
21 maintain liquid assets of \$25,000.00 and a tangible net worth of \$50,000.00.

22 During a regulatory examination of the books and records of Respondent commenced on or
23 about March 3, 2009, it was determined that Respondent did not meet the liquid asset and tangible
24 net worth requirements of Financial Code section 17210. As of February 29, 2009, Respondent had
25 a liquid asset deficiency in the amount of \$41,889.21 and a tangible net worth deficiency in the
26 amount of \$36,688.21.

27 On or about August 10, 2009 and February 26, 2001, Respondent was requested to submit
28 evidence that it meets the liquid asset and tangible net worth requirements of Financial Code section

1 17210. To date, Respondent has failed to prove its meet the liquid asset and tangible net worth
2 requirements of Financial Code section 17210.

3 VIII

4 Pursuant to Financial Code section 17207, on or before June 30 of each year, all licensees
5 under the Escrow Law are required to pay an annual assessment in the amount fixed and noticed by
6 the Commissioner on or before May 30 in accordance with Financial Code section 17207.

7 On or about May 30, 2010, the Commissioner notified Respondent by invoice number
8 ES0662 that the amount of the annual assessment was \$2,800.00 and that it was due on or before
9 June 30, 2010. As of the date hereof, Respondent has still not paid its annual assessment to the
10 Commissioner as required by Financial Code section 17207.

11 IX

12 Pursuant to Financial Code section 17209, an application for an escrow agent’s license is
13 required to contain among other items, (i) the names and addresses of the incorporators, the name
14 and address of the escrow manager meeting the requirements of Financial Code section 17200.8 and
15 a statement supporting such person’s qualifications, and (iii) a completed statement of identity and
16 questionnaire (“SIQ”) for all stockholders, directors, officers, trustees, managers and other persons
17 participating in the escrow business (other than usual and customary employees who file under
18 Section 17414.1 and 17419) along with their fingerprints.

19 Pursuant to Financial Code sections 17212.1, 17414.1 and 17419, escrow agents are required
20 to amend their application(s) if there is any change in any of the persons required to be identified in
21 the application(s) and/or if new usual and customary employees have been hired.

22 In or about March 2010, Tal Tepper, Dan Tepper and Lee Alan Simon began working for
23 Respondent as president, vice-president and escrow manager, respectively. Respondent has never
24 disclosed nor submitted the required SIQ and fingerprints of Dan Tepper to the Commissioner in
25 violation of Financial Code section 17212.1. Respondent further violated Financial Code section
26 17212.1 by never disclosing nor submitting the required documents on Tal Tepper or Lee Alan
27 Simon until on or about September 7, 2010, almost 6 months after they began working for
28 Respondent. As of the date hereof, Respondent has never responded to the Commissioner’s

1 September 10, 2010 notice of deficiencies in the documents filed on Tal Tepper and Lee Alan
2 Simon.

3 X

4 Financial Code section 17608 provides in pertinent part:

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

7 (a) The licensee has failed to maintain in effect a bond required under the
8 provisions of this division.

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

12 XI

13 Complainant finds that, by reason of the foregoing, Respondent has violated Financial Code
14 sections 17202, 17207, 17210 and 17212.1 and repeatedly violated Financial Code section 17406,
15 which constitute grounds for the revocation of its escrow agent’s license.

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

17 Dated: January 31, 2010
18 Los Angeles, CA

19 PRESTON DuFAUCHARD
20 California Corporations Commissioner

21 By _____
22 Judy L. Hartley
23 Senior Corporations Counsel
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27
28

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JUDY L. HARTLEY (CA BAR NO. 110628)
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Telephone: (213) 576-7604 Fax: (213) 576-7181

6 Attorneys for Complainant
7

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

10
11 In the Matter of THE CALIFORNIA) File No.: 963-2415
CORPORATIONS COMMISSIONER,)
12)
13 Complainant,) ORDER IMPOSING PENALTIES PURSUANT
TO CALIFORNIA FINANCIAL CODE
14 vs.) SECTION 17408
15 WEST AMERICAN ESCROW, INC.,)
16 Respondent.)
17)
18)

19 TO: WEST AMERICAN ESCROW, INC.
20 15720 Ventura Blvd. #405
21 Encino, California 91436

22 NOW THEREFORE the California Corporations Commissioner (“Commissioner”) having
23 found that West American Escrow, Inc. failed to file its annual audit report containing audited
24 financial statements for its fiscal years ended February 28, 2009 and February 28, 2010 as required
25 by Financial Code section 17406, West American Escrow, Inc. is hereby ordered, pursuant to
26 Financial Code section 17408, to pay to the Commissioner the sum of \$387,500.00, plus an
27 additional \$1,000.00 a day for each day after January 31, 2011 that the 2009 and 2010 annual audit
28 reports are not filed.

1 Pursuant to Financial Code section 17406, West American Escrow, Inc. (“West”) was
2 required to submit its annual audit report for the fiscal year ended February 28, 2009 (“2009 audit
3 report”) to the Commissioner on or before June 15, 2009.

4 On or about January 23, 2009, Complainant notified Respondent in writing that its audit
5 report for the period ending February 28, 2009 was due June 15, 2009. Respondent failed to file the
6 2009 audit report by June 15, 2009.

7 On or about June 29, 2009, a follow up letter was sent to Respondent demanding the 2009
8 audit report be filed no later than July 9, 2009, and notifying Respondent that failure to file the 2009
9 audit report by July 9, 2009 would result in the company being assessed penalties in the amount of
10 \$100.00 per day for the first five days and \$500.00 per day for each day thereafter that the 2009
11 audit report was late. Respondent has yet to submit the 2009 audit report as required by Financial
12 Code section 17406. The 2010 audit report is 570 days late as of the date of this Order.

13 On or about January 11, 2010, Complainant notified Respondent in writing that its audit
14 report for the period ending February 28, 2010 (“2010 audit report”) was due June 15, 2010.
15 Respondent failed to file the 2010 audit report by June 15, 2010.

16 On or about June 21, 2010, a follow up letter was sent to Respondent demanding the 2010
17 audit report be filed no later than July 1, 2009, and notifying Respondent that failure to file the 2010
18 audit report by July 1, 2010 would result in the company being assessed penalties in the amount of
19 \$100.00 per day for the first five days and \$500.00 per day for each day thereafter that the 2010
20 audit report was late.

21 Financial Code Section 17408, subdivisions (b) – (e) provides as follows:

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

(c) If, after an order has been made under subdivision (b), a request for
hearing is filed in writing within 30 days of the date of service of the order
by the person to whom the order was directed, a hearing shall be held
in accordance with the Administrative Procedure Act, Chapter 5 (commencing

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with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted under that chapter.

(d) If the person fails to file a written request for a hearing within 30 days of the date of service of the order, the order imposing the penalty shall be deemed a final order of the commissioner, and the penalty shall be paid within five business days.

(e) If a hearing is requested, the penalty shall be paid within five business days after the effective date of any decision in the case ordering payment to be paid.

Dated: January 31, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
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3 JUDY L. HARTLEY (CA BAR NO. 110628)
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of THE) File No.: 963-2415
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ORDER REVOKING ESCROW AGENT’S
13) LICENSE
Complainant,)
14)
15 vs.)
16 WEST AMERICAN ESCROW, INC.,)
17 Respondent.)
18)

19 The California Corporations Commissioner (“Commissioner”) finds that:

20 1. West American Escrow, Inc. (“Respondent” or “West”) is an escrow agent licensed
21 by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the
22 Escrow Law of the State of California (California Financial Code Section 17000 et seq.). West has
23 been licensed as an escrow agent since March 7, 2007.

24 2. Pursuant to Financial Code section 17406, all licensees under the Escrow Law are
25 required to file an annual audit report containing audited financial statements (“audit report”) within
26 one hundred and five (105) days after the close of their fiscal year. West’s fiscal year end is
27 February 28. Accordingly, West was required to file its audit report on or before June 15 of each
28 year.

1 3. On January 11, 2010, Complainant notified West in writing that its audit report for
2 the period ending February 28, 2010 was due June 15, 2010. West failed to file the 2010 audit report
3 by June 15, 2010.

4 4. On June 21, 2010, a follow up letter was sent to West demanding the 2010 audit
5 report be filed no later than July 1, 2009, and notifying West that failure to file the 2010 audit report
6 by July 1, 2010 would result in the company being assessed penalties in the amount of \$100.00 per
7 day for the first five days and \$500.00 per day for each day thereafter that the 2010 audit report was
8 late. The letter further notified West that failure to file the 2010 audit report by July 1, 2010 could
9 also result in a revocation of its license.

10 5. West has yet to submit the 2010 audit report as required by Financial Code section
11 17406. The 2010 audit report was 213 days late as of the date of this Accusation.

12 6. Previously, on January 23, 2009, Complainant notified West in writing that its audit
13 report for the period ending February 28, 2009 was due June 15, 2009. West failed to file the 2009
14 audit report by June 15, 2009.

15 7. On June 29, 2009, a follow up letter was sent to West demanding the 2009 audit
16 report be filed no later than July 9, 2009, and notifying West that failure to file the 2009 audit report
17 by July 9, 2009 would result in the company being assessed penalties in the amount of \$100.00 per
18 day for the first five days and \$500.00 per day for each day thereafter that the 2009 audit report was
19 late. The letter further notified West that failure to file the 2009 audit report by July 9, 2009 could
20 also result in a revocation of its license.

21 8. West has yet to submit the 2009 audit report as required by Financial Code section
22 17406. The 2010 audit report is 570 days late as of the date of this Accusation.

23 9. West previously failed to timely file its 2008 audit report. West failed to file its 2008
24 audit report until July 7, 2008, which was 21 days late. At that time, the Commissioner sent written
25 notice to West that if future audit reports were not timely filed the Commissioner would assess
26 penalties and possibly take action against the license.

27 10. Financial Code section 17602.5 provides in pertinent part that “[i] any licensed
28 escrow agent fails to make any reports required by law or by the commissioner within ten (10) days

1 from the date designated for the making of the reports, or within any extension of time granted by
2 the commissioner, . . . such failure shall constitute grounds for the suspension or revocation of the
3 license held by such escrow agent.

4 11. Pursuant to Financial Code section 17202, all escrow agent licensees are required to
5 maintain a surety bond. The surety bond of West expired on March 10, 2010, and no replacement
6 has been obtained by West.

7 12. On March 11, 2010, the Commissioner issued an Order to Discontinue Escrow
8 Activities pursuant to Financial Code Section 17415 for failure to maintain the required surety bond.
9 This Order was served on West on or about March 15, 2010.

10 13. West has yet to obtain a proper replacement surety bond in violation of Financial
11 Code section 17202.

12 14. Pursuant to Financial Code section 17210, all licensees under the Escrow Law are
13 required to maintain liquid assets of \$25,000.00 and a tangible net worth of \$50,000.00.

14 15. During a regulatory examination of the books and records of West commenced on
15 March 3, 2009, it was determined that West did not meet the liquid asset and tangible net worth
16 requirements of Financial Code section 17210. As of February 29, 2009, West had a liquid asset
17 deficiency in the amount of \$41,889.21 and a tangible net worth deficiency in the amount of
18 \$36,688.21.

19 16. On August 10, 2009 and February 26, 2001, West was requested to submit evidence
20 that it meets the liquid asset and tangible net worth requirements of Financial Code section 17210.
21 To date, West has failed to prove its meet the liquid asset and tangible net worth requirements of
22 Financial Code section 17210.

23 17. Pursuant to Financial Code section 17207, on or before June 30 of each year, all
24 licensees under the Escrow Law are required to pay an annual assessment in the amount fixed and
25 noticed by the Commissioner on or before May 30 in accordance with Financial Code section 17207.

26 18. On May 30, 2010, the Commissioner notified West by invoice number ES0662 that
27 the amount of the annual assessment was \$2,800.00 and that it was due on or before June 30, 2010.
28

1 As of the date hereof, West has still not paid its annual assessment to the Commissioner as required
2 by Financial Code section 17207.

3 19. Pursuant to Financial Code section 17209, an application for an escrow agent’s
4 license is required to contain among other items, (i) the names and addresses of the incorporators,
5 the name and address of the escrow manager meeting the requirements of Financial Code section
6 17200.8 and a statement supporting such person’s qualifications, and (iii) a completed statement of
7 identity and questionnaire (“SIQ”) for all stockholders, directors, officers, trustees, managers and
8 other persons participating in the escrow business (other than usual and customary employees who
9 file under Section 17414.1 and 17419) along with their fingerprints.

10 20. Pursuant to Financial Code sections 17212.1, 17414.1 and 17419, escrow agents are
11 required to amend their application(s) if there is any change in any of the persons required to be
12 identified in the application(s) and/or if new usual and customary employees have been hired.

13 21. In March 2010, Tal Tepper, Dan Tepper and Lee Alan Simon began working for
14 West as president, vice-president and escrow manager, respectively. West has never disclosed nor
15 submitted the required SIQ and fingerprints of Dan Tepper to the Commissioner in violation of
16 Financial Code section 17212.1. West further violated Financial Code section 17212.1 by never
17 disclosing nor submitting the required documents on Tal Tepper or Lee Alan Simon until on or about
18 September 7, 2010, almost 6 months after they began working for West. As of the date hereof, West
19 has never responded to the Commissioner’s September 10, 2010 notice of deficiencies in the
20 documents filed on Tal Tepper and Lee Alan Simon.

21 22. The above-described violations constitute grounds under Financial Code section
22 17608 to revoke the escrow agent’s license.

23 23. On June 3, 2011, the Commissioner issued a Notice of Intention to Issue Order
24 Revoking Escrow Agent’s License, Accusation and accompanying documents against West based
25 upon the above. West was served on February 7 and 9, 2011, respectively. The Department has
26 received no request for a hearing from West and the time to request a hearing has expired.

27 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that escrow agent’s
28 license of West American Escrow, Inc. is hereby revoked effective that date hereof.

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Dated: March 2, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner

1 unsafe and injurious manner as to render further operations hazardous to the public or to
2 customers.

3 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
4 THEREFORE, it is hereby ORDERED, under the provisions of Section 17415 of the California
5 Financial Code, that WEST AMERICAN ESCROW, INC. immediately discontinue acceptance of
6 any new escrow or joint control business, and of money, documents or other property in
7 connection therewith.

8 THIS ORDER is to remain in full force and effect until further order of the Commissioner.

9 Section 17415 of the Financial Code provides as follows:

10 (a) If the commissioner, as a result of any examination or from
11 any report made to him or her, shall find that any person subject to this
12 division is in an insolvent condition, is conducting business in such an
13 unsafe or injurious manner as to render further operations hazardous to the
14 public or to customers, has failed to comply with the provisions of Section
15 17212.1 or 17414.1, has permitted its tangible net worth to be lower than
16 the minimum required by law, has failed to maintain its liquid assets in
17 excess of current liabilities as set forth in Section 17210, or has failed to
18 comply with the bonding requirements of Chapter 2 (commencing with
19 Section 17200) of this division, the commissioner may, by an order
20 addressed to and served by registered or certified mail or by personal
21 service on such person and on any other person having in his or her
22 possession or control any escrowed funds, trust funds or other property
23 deposited in escrow with said person, direct discontinuance of the
24 disbursement of trust funds by the parties or any of them, the receipt of
25 trust funds, the delivery or recording of documents received in escrow, or
26 other business operations. No person having in his or her possession any of
27 these funds or documents shall be liable for failure to comply with the
28 order unless he or she has written notice of the order. Subject to
subdivision (b), the order shall remain in effect until set aside by the
commissioner in whole or in part, the person has been adjudged bankrupt,
or pursuant to Chapter 6 (commencing with Section 17621) of this division
the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of any order pursuant to
Subdivision (a), the person may request a hearing under the Administrative
Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3
or Title 2 of the Government Code. Upon receipt of a request, the matter
shall be set for hearing to commence within 30 days after such receipt
unless the person subject to this division consents to a later date. If no
hearing is requested 15 days after the mailing or service of such notice and
none is ordered by the commissioner, the failure to request a hearing shall

1 constitute a waiver of the right to a hearing. Neither the request for a
2 hearing nor the hearing itself shall stay the order issued by the
3 commissioner under subdivision (a).

4 Dated: March 11, 2010
5 Los Angeles, California

6 Preston DuFauchard
7 California Corporations Commissioner

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9 By _____
10 Kathleen R. Partin
11 Special Administrator
12 (213) 576-7595
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