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

11 In the Matter of THE CALIFORNIA)
CORPORATIONS COMMISSIONER,)

File No.: 963-1944

13 Complainant,

) **NOTICE AND SUMMARY OF FINDINGS**
) **PURSUANT TO FINANCIAL CODE**
) **SECTION 17621**

14 v.

15 WEST ESCROW, INC.,)

16 Respondent.)
17)

18 TO: WEST ESCROW, INC.
315 S. Beverly Drive, Suite 515
19 Beverly Hills, California 90212

20 CITY NATIONAL BANK, N.A.
21 5601 East Slauson Avenue
22 City of Commerce, California 90040

23 MELLON 1st BUSINESS BANK, N.A.
24 1800 Avenue of the Stars
Los Angeles, California 90067

25 U.S. BANK, N.A.
26 1800 Avenue of the Stars
27 Los Angeles, California 90067

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PLEASE TAKE NOTICE that the California Corporations Commissioner finds:

1. On or about November 13, 2008, a special examination of the books and records of West Escrow, Inc. ("West Escrow") was commenced by the California Corporations Commissioner ("Commissioner"). The special examination revealed the following:

a. Beginning in or about March 2008, and continuing through at least August 2008, West Escrow transferred or otherwise disbursed trust funds totaling at least \$39,300.00 to its general and/or payroll accounts or otherwise for the payment of business operating expenses or other non-trust related expenses in violation of Financial Code section 17409 and 17414, subdivision (a)(1), and California Code of Regulations, title 10, sections 1738 and 1738.2.

b. The unauthorized disbursements described in paragraph 1.a., above, have caused a shortage of at least \$39,300.00 to exist in the trust account of West Escrow in violation of California Code of Regulations, title 10, section 1738.1¹.

c. Commencing in or about July 2007, and continuing through at least July 2008, West Escrow made unauthorized disbursements of trust funds totaling at least \$486,034.68 in violation of Financial Code section 17414, subdivision (a)(1), and California Code of Regulations, title 10, sections 1738 and 1738.2.

d. The unauthorized disbursements described in paragraph 1.c., above, have caused a shortage of at least \$486,034.68 to exist in the trust account of West Escrow in violation of California Code of Regulations, title 10, section 1738.1².

e. In connection with the unauthorized disbursements described above in paragraph 1.c., West Escrow has falsified escrow records by creating false receipts in violation of Financial Code section 17414, subdivision (a)(2).

2. Furthermore, the Commissioner finds that West Escrow has committed additional violations of the Escrow Law, including the following:

¹ West Escrow has caused a total net shortage to exist in the trust account of at least \$528,934.83 in violation of California Code of Regulations, title 10, section 1738.1.

² See Fn. 1.

1 a. Failure to perform monthly bank reconciliations on the trust account since at least
2 April 30, 2008 in violation of Financial Code section 17404 and California Code of Regulations, title
3 10, section 1732.2.

4 b. Failure to comply with the bonding requirements of Financial Code section 17202 in
5 that effective October 19, 2008, Bond Number 1006155 issued by Accredited Surety and Casualty
6 Company in favor of West Escrow has expired and no replacement bond has been obtained in
7 violation of section 17202 of the Financial Code.

8 c. Failure to pay its annual assessment as is required by Financial Code section 17207.

9 d. Failure to employ an escrow manager, in that on or about November 12, 2008, Angie
10 West, West Escrow's president and sole shareholder, passed away leaving West Escrow without any
11 escrow manager in violation of Financial Code section 17200.8.

12 e. Failure to report employees to the Commissioner, in that West Escrow employed
13 several individuals in its escrow business without having first notified the Commissioner of their
14 employment in violation of Financial Code section 17419 and California Code of Regulations, title
15 10, section 1726.

16 3. The Commissioner has demanded that West Escrow cure the defects described above;
17 however, West Escrow remains in violation of the above-cited provisions of the Financial Code.

18 4. California Financial Code section 17621 provides in pertinent part:

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

21 . . .

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

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

23 (d) Refuses to submit its books, papers and affairs to the inspection of any
24 examiner;

25 . . .

25 (i) Has failed to comply with the bonding requirements of Chapter 2 of
26 this division

27 the commissioner shall dispatch a written notice and summary of findings, as
28 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

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reasonable opportunity to comply or otherwise effect such remedies 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.

5. Based upon the foregoing, the Commissioner finds that West Escrow has violated Financial Code sections 17200.8, 17202, 17207, 17404, 17409, 17414, subdivisions (a)(1) and (a)(2), 17419 and California Code of Regulations, title 10, sections 1726, 1732.2, 1738, 1738.1, 1738.2, and is conducting escrow business in an unsafe and unauthorized manner, such that no compliance is possible.

Dated: March 19, 2009

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Acting Deputy Commissioner
Enforcement Division