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8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
10 OF THE STATE OF CALIFORNIA

<p>11 In the Matter of:</p> <p>12 THE COMMISSIONER OF FINANCIAL</p> <p>13 PROTECTION AND INNOVATION,</p> <p>14 Complainant,</p> <p>15 v.</p> <p>16 D &amp; G ESCROW CORPORATION,</p> <p>17 Respondent.</p>	<p>) ESCROW LICENSE NO.: 963-0081</p> <p>) ORDER IMPOSING PENALTIES PURSUANT</p> <p>) TO FINANCIAL CODE SECTION 17408</p>
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20 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner  
21 or Complainant) of the Department of Financial Protection and Innovation (Department), finds that:

22 **I.**

23 **Introduction**

24 1. D & G Escrow Corporation (D & G) was an escrow agent licensed by the  
25 Commissioner pursuant to Section 17005.1 of the Escrow Law of the State of California,  
26 commencing at Cal. Fin. Code §§ 17000 – 17703 (Escrow Law).

27 2. D & G’s principal place of business is located at 28030 Dorothy Drive, Suite 202,  
28 Agoura Hills, California 91301.

1 II.

2 **Failure to File Annual Audit Reports – Cal. Fin. Code § 17406(a)**

3 3. Pursuant to California Financial Code section 17406(a), all licensees under the  
4 Escrow Law are required to file an annual audit report containing audited financial statements  
5 within 105 days after the close of their fiscal year. D & G's fiscal year-end is December 31.

6 **2021 Annual Audit Report**

7 4. On or around November 19, 2021, the Department sent a bulletin, through  
8 GovDelivery.com, to D & G's designated email address on file to remind D & G that its 2021  
9 annual audit report was due on April 15, 2022. The Department also warned D & G that failure to  
10 file its 2021 annual audit report by the due date would subject it to a penalty under California  
11 Financial Code section 17408. In addition, D & G was cautioned that its escrow agent license may  
12 be revoked or suspended pursuant to California Financial Code section 17602.5 if it failed to file  
13 the required report by the due date. A delivery report generated from GovDelivery.com dated  
14 November 19, 2021, indicated the notification was delivered and received by D & G. D & G did  
15 not file its 2021 annual audit report on or before the due date of April 15, 2022.

16 5. On or around June 1, 2022, the Department issued a written demand to D & G to file  
17 its 2021 annual report within 10 days (2021 10-day demand). Again, the Department warned D &  
18 G of the potential penalty assessment and suspension or revocation of its escrow agent's license for  
19 its failure to file the required 2021 annual audit report. The 2021 10-day demand was sent by email  
20 to D & G's designated email address.

21 6. On or around June 1, 2022, D & G confirmed receipt of the 2021 10-day demand  
22 and requested an extension to file the 2021 annual audit report by the end of June 2022. Since D &  
23 G's request for an extension came one and a half months after its due date the request was denied.

24 7. To date, D & G has not filed its 2021 annual audit report, in violation of California  
25 Financial Code section 17406(a).

26 **2022 Annual Audit Report**

27 8. On or around November 17, 2022, the Department sent a bulletin, through  
28 GovDelivery.com, to D & G's designated email address on file to remind D & G that its 2022

1 annual audit report was due on April 17, 2023. The Department also warned D & G that failure to  
2 file its 2022 annual audit report by the due date would subject it to a penalty under California  
3 Financial Code section 17408. D & G was again cautioned that its escrow agent license may be  
4 revoked or suspended pursuant to California Financial Code section 17602.5 if it failed to file the  
5 required report by the due date. A delivery report generated from GovDelivery.com dated  
6 November 17, 2022, indicated the notification was delivered and received by D & G. D & G did  
7 not file its 2022 annual audit report on or before the due date of April 17, 2022.

8 9. On or around June 19, 2023, the Department issued a written demand to D & G to  
9 file its 2022 annual report within 10 days (2022 10-day demand). Again, the Department warned D  
10 & G of the potential penalty assessment and suspension or revocation of its escrow agent's license  
11 for its failure to file the required 2022 annual audit report. The 2022 10-day demand was sent by  
12 email to D & G's designated email address.

13 10. On or around September 5, 2023, the Department again emailed a copy of the 2022  
14 10-day demand to D & G's designated email with Outlook delivery tracking, which indicated the  
15 email was delivered and received.

16 11. To date, D & G has not filed its 2022 annual audit report, in violation of California  
17 Financial Code section 17406(a).

### 18 19 III.

#### 20 **Failure to File Annual Escrow Liability Report – Cal. Fin. Code § 17348**

21 12. Pursuant to California Financial Code section 17348 each licensed escrow agent  
22 must file its Escrow Annual Liability Report for each licensed location by no later than February 15  
23 of each year.

24 13. The Department sent three bulletins, on December 19, 2022, January 13, 2023, and  
25 February 3, 2023, to D & G's designated email address to remind it to file its 2022 Escrow Annual  
26 Liability Report electronically by the filing deadline of February 15, 2023, via its Portal account  
27 registered with the Department. The bulletins also reminded D & G that its 2022 Escrow Annual  
28 Liability Report must be filed even if no business was conducted during the year and that failure to

1 file the report would result in a penalty and grounds for license revocation. D & G did not file its  
2 2022 Escrow Annual Liability Report by the deadline of February 15, 2023.

3 14. On or around March 30, 2023, the Department issued a written demand to D & G to  
4 file its 2022 Escrow Annual Liability Report within 10 days (Liability Report 10-day demand).  
5 Again, the Department warned D & G of the potential penalty assessment and revocation of its  
6 escrow agent’s license for its failure to file the required 2022 Escrow Annual Liability Report. The  
7 Liability Report 10-day demand was sent by certified mail to D & G’s business address on file with  
8 the Department.

9 15. To date, D & G has not filed its 2022 Escrow Annual Liability Report, in violation  
10 of California Financial Code section 17348.

#### 11 IV.

##### 12 **Failure to Meet Liquid and Tangible Net Worth Requirements – Cal. Fin. Code § 17210**

13 16. Pursuant to California Financial Code section 17210, all escrow agents must  
14 maintain a tangible net worth of at least \$50,000, including liquid assets of at least \$25,000 in  
15 excess of current liabilities.

16 17. On or around August 3, 2021, the Department commenced a regulatory examination  
17 of D & G (Exam), requesting documents required to begin the Exam.

18 18. Review of D & G’s balance sheet as of September 30, 2021, during the Exam  
19 disclosed that D & G had a liquid capital deficit of \$248,766.38, indicating a liquid deficiency of  
20 \$273,766.38. D & G also had a tangible net worth deficit of \$229,953.90, indicating a tangible net  
21 worth deficiency of \$279,953.90, in violation of California Financial Code section 17210.

#### 22 V.

##### 23 **Failure to Maintain Books and Records – Cal. Fin. Code § 17408; 10 C.C.R. § 1737.3(a)**

24 19. Pursuant to California Code of Regulations, title 10, section 1737.3(a), an escrow  
25 agent shall preserve for at least five years from the close of escrow: (1) All bank statements of the  
26 “trust” or “escrow” account; (2) All canceled checks drawn upon the “trust” or “escrow” account;  
27 (3) Copies of bank deposit slips with reference to the “trust” or “escrow” account; (4) All additional  
28 records reflecting banking transactions with reference to the “trust” or “escrow” account, including

1 copies of all receipts for funds transferred from interest-bearing accounts into the “trust” or  
2 “escrow” account; (5) The Statement of Account; (6) Escrow instructions and amendments thereto;  
3 (7) All additional records pertinent to the escrow transaction.

4 20. Moreover, California Financial Code section 17408 requires all licensees under the  
5 Escrow Law to make other special reports as the Commissioner may require.

6 21. Starting from the beginning of the Exam on or around August 3, 2021, through on or  
7 around February 16, 2023, the Department demanded the following books and records from D & G:

8 a. Copy of buyer and seller’s signed escrow instructions, buyer and seller’s  
9 signed estimate closing statements, buyer’s final closing statements, lender’s funding worksheet,  
10 title invoice, and title disbursement summary for escrow number 629412;

11 b. Copy of borrower’s signed estimate closing statement, and title invoice for  
12 escrow number 628332;

13 c. Copy of borrower’s signed escrow instructions, signed estimate closing  
14 statement, lender’s funding worksheet, and title invoice for escrow number 429584;

15 d. Copy of escrow file (complete copy) for escrow number 428314;

16 e. Copies of check numbers 116708 and 123723;

17 f. Copies of initiate wires and approved wires for wire numbers 2330, 2350,  
18 2508, 2509, 2575, 2593, and 2602;

19 g. Copies of general account cleared checks (front and back) along with e-  
20 deposit slips or bank’s incoming wire confirmations for escrow receipt numbers 85208 and 85210;

21 h. Complete copies of cleared checks (front and back) in relation to escheat  
22 report;

23 i. Copy of trust account check or bank’s outgoing wire confirmation to check  
24 number 2602 issued on October 29, 2021, for \$250,000.

25 j. Copies of the current trust account and dormant trust account bank  
26 statements for September 30, 2020, to February 28, 2021;

27 k. Copies of the dormant trust account bank statement for March 31, 2021;

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1 VIII.

2 **Unauthorized Hold Open Fees Causing Escrow Shortages – Cal. Fin. Code § 17421.5(a)**

3 27. Pursuant to California Financial Code section 17421.5(a) a licensee may charge a fee  
4 for administering an escrow that has been postponed for at least two months from the most recent  
5 closing date agreed upon by the parties in the written instructions or has been canceled if all of the  
6 following requirements are met: (1) the postponement or cancellation resulted from the acts or  
7 omissions of the parties to the escrow transaction; (2) the fee was disclosed in the written  
8 instructions in not less than 8-point bold type on the face or front page of the instructions; and (3)  
9 the principal parties to the escrow transaction have executed the written fee instructions by  
10 initialing those instructions.

11 28. Review of escrow file number 433224, which closed on May 24, 2018, showed a  
12 disbursement of \$600.00 with a description of “HOF” on December 16, 2020. However, the escrow  
13 instructions signed by the principals lacked any instructions regarding any hold open fees resulting  
14 in an escrow shortage in the amount of \$600.00. On or around February 16, 2023, D & G was  
15 directed to show evidence of curing the escrow shortage in escrow file number 433224. To date, D  
16 & G has failed to provide evidence of curing the escrow shortage in file number 433224, in  
17 violation of California Financial Code section 17421.5.

18 IX.

19 **Accusation to Issue Orders: Revoking Escrow Agent’s License and Imposing Penalties; and**  
20 **Order Revoking Escrow Agent’s License**

21 29. On November 30, 2023, pursuant to California Financial Code sections 17602.5 and  
22 17608(b) and (c), the Commissioner issued to D & G a Notice of Intent to Issue Order Revoking  
23 Escrow Agent’s License, Accusation to issue Orders: (1) Revoking Escrow Agent’s License  
24 Pursuant to Financial Code Sections 17602.5 and 17608; and (2) Imposing Penalties Pursuant to  
25 Financial Code Section 17408, and accompanying documents for D & G’s violations of California  
26 Financial Code sections 17210(a), 17348, 17406(a) and (e), 17408, and 17421.5(a), and California  
27 Code of Regulations, title 10, sections 1737.e(a), 1738.1, and 1738.2 of the Escrow Law  
28 (Accusation).

1           30.     The Accusation prayed that pursuant to California Financial Code section 17408(b),  
2 a penalty be imposed against D & G Escrow Corporation for failing to file the following reports  
3 within the time specified in written demand or by the extended deadline granted by the  
4 Commissioner, in the amount of \$100.00 per day for the first five days the report is overdue, and  
5 thereafter, \$500.00 per day for each day the report is overdue, accruing until the date of payment by  
6 D & G Escrow Corporation, as follows:

7           (1) for the 2021 annual audit report demanded on or around June 1, 2022, a penalty  
8 continuing to accrue until the date of submission, currently at least 480 days, of at least  
9 \$240,000.00, or according to proof;

10           (2) for the 2022 annual report demanded on or around June 19, 2023, a penalty continuing to  
11 accrue until the date of submission, currently at least 96 days, of at least \$48,000.00, or according to  
12 proof;

13           (3) for the 2022 Escrow Liability Report demanded on or around March 30, 2023, a penalty  
14 continuing to accrue until the date of submission, currently at least 177 days, of at least \$89,000.00,  
15 or according to proof;

16           (4) for the books and records required by California Code of Regulations, title 10, section  
17 1737.3(a) and California Financial Code section 17408(a), a penalty continuing to accrue until the  
18 date of submission, currently at least 220 days, of at least \$110,000.00, or according to proof,

19           For a total amount of penalties of at least \$487,000.00, or according to proof.

20           31.     On or around December 11, 2023, the Commissioner served the Accusation on D &  
21 G Escrow Corporation at its principal place of business on file with the Department. The  
22 Department received no request for a hearing from D & G Escrow Corporation regarding the Notice  
23 of Intent to Issue Order Revoking Escrow Agent’s License within the statutory time to request a  
24 hearing.

25           32.     Therefore, on January 4, 2024, the Commissioner revoked the escrow agent’s license  
26 of D & G Escrow Corporation.

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1 33. As of January 11, 2024, the Department has received no request for a hearing from  
2 D & G Escrow Corporation regarding the Accusation Imposing Penalties Pursuant to Financial  
3 Code Section 17408 and the statutory time to request a hearing has expired.

4 X.

5 **Order Imposing Penalties**

6 34. Pursuant to California Financial Code section 17408, D & G Escrow Corporation is  
7 hereby ordered to pay ordered to pay the Commissioner a penalty of \$487,000.00 within 30 days of  
8 the date of this order. This penalty shall be made payable in the form of an Automated Clearing  
9 House deposit or cashier’s check made payable to the Department of Financial Protection and  
10 Innovation. The cashier’s check shall be mailed to the attention of “Accounting – Litigation” at  
11 Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California  
12 95834-2036. Notice of such payment shall be concurrently sent to Sophia C. Kim via e-mail at  
13 Sophia.Kim@dfpi.ca.gov.

14  
15 Dated: January 12, 2024  
16 Los Angeles, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



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18  
19 By: \_\_\_\_\_  
20 MARY ANN SMITH  
21 Deputy Commissioner  
22 Enforcement Division  
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