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California Corporations Commissioner
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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. DIAMOND ROSE ESCROW, INC., Respondent.	)))))))))))	File No.: 9632336 1) ACCUSATION FOR REVOCATION OF ESCROW LICENSE; and 2) ORDER IMPOSING PENALTIES

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

I.

DIAMOND ROSE ESCROW, INC. (“Respondent” or “Diamond”) is an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.).

II.

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

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hundred and five (105) days after the close of their fiscal year. Diamond's fiscal year end is December 31, 2009. Accordingly, Respondent was required to file its Annual Report on or before April 15, 2010. A reminder letter was issued to Respondent in or about November 2009.

On or about May 19, 2010, a demand letter was sent to Respondent concerning its failure to file the Annual Report. Respondent was notified in the letter that failure to file the Annual Report could result in assessment of penalties, a special examination and/or administrative action. Respondent has yet to file the Annual Report as required by Financial Code section 17406.

III.

Pursuant to Financial Code sections 17202 and 17202.1, all licensees under the Escrow Law are required to file a surety bond with the Commissioner. In lieu of the surety bond, a licensee may deposit a cash bond in the amount required with the Commissioner. Diamond has failed to maintain its surety bond or deposit with the Commissioner a cash bond, as required. Bond No. 435916 issued by American Contractors Indemnity Company in favor of Diamond expired in or about January 2009. Diamond has not obtained a replacement bond.

On or about January 28, 2009, the Commissioner issued an Order to Discontinue Escrow Activities Pursuant to California Financial Code section 17415 to Diamond. To date, the surety bond has not been reinstated or replaced, and a cash bond is not on deposit with the Commissioner. The Order to Discontinue Escrow Activities Pursuant to California Financial Code section 17415 remains in effect.

IV.

Pursuant to Financial Code section 17207, all licensees under the Escrow Law are required to pay an annual license fee or assessment for each location in an amount not to exceed $2,800.00 ("Assessment"). Payment for the Assessment was due June 30, 2010. A penalty of 10% is due for each month or partial month the payment is not received after June 30, 2010, pursuant to Financial Code section 17207(e)(3) ("Assessment Penalty"). Diamond, to date, has yet to pay the Assessment and/or Assessment Penalty. An Assessment Penalty of $1,960.00 has accrued to date in addition to the Assessment of $2,800.00, totaling $4,760.00.

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IV.

In addition, Respondent is deficient in maintaining its business pursuant to the Escrow Law. Diamond has improperly abandoned their business and ceased all operations. Specifically, Diamond (1) failed to notify the Department of a change in their address, in violation of Financial Code section 17213.1; (2) failed to maintain its books, records and accounts in accordance with generally accepted accounting principles and good business practices, in violation of California Code of Regulations section 1732; and (3) failed to notify the Commissioner of its current location and the location of books, records and accounts, in violation of California Code of Regulations section 1730.

V.

Financial Code section 17602.5 provides in pertinent part as follows:

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

Financial Code section 17608 provides in pertinent part:

> The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:
>
> (b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

Financial Code section 17408 provides in pertinent part:

> (b) The commissioner may, impose, by order, a penalty on any person who fails, within the time specified in any written demand of the commissioner, (1) to make and file with the commissioner any report required by law or requested by the commissioner, or (2) to furnish any material information required by the commissioner to be included in 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.
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> (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 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.

VI.

ORDER IMPOSING PENALTIES PURSUANT TO FINANCIAL CODE SECTION 17408

Pursuant to Financial Code section 17408, Respondent shall pay a penalty for failure to file the Annual Report. Pursuant to Financial Code section 17408(b), penalties begin to accrue within the time specified in the Commissioner's demand. The Commissioner issued a letter on May 19, 2010 that demanded the Annual Reports be filed within ten (10) days of the date of the letter. Consequently, penalties begin accruing on May 29, 2010. To date, the report has not been filed by Respondent.

NOW, THEREFORE, DIAMOND ROSE ESCROW, INC. is hereby ordered to pay the Commissioner a total of One Hundred Twenty Thousand Dollars ($120,000.00).[1]

VII.

Complainant finds that, by reason of the foregoing, Diamond has violated Financial Code sections 17202, 17207, 17213.1 and 17406. Complainant also finds that, by reason of the foregoing, Diamond has violated California Code of Regulations section 1730 and 1732. These violations

[1] Accrued Penalties = $100.00 per day for the first five (5) days of delinquency (May 29, 2010 – June 2, 2010) then $500.00 per day for each day of delinquency thereafter. Penalties shall accrue until the Annual Report is filed with the Department.

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constitute grounds for the revocation of its escrow agent's license pursuant to Financial Code section 17602.5.

WHEREFORE, IT IS PRAYED that the DIAMOND ROSE ESCROW, INC.'s escrow agent's license be revoked, pursuant to Financial Code section 17608.

Dated: January 31, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner

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