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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE COMMISSIONER OF BUSINESS OVERSIGHT OF THE STATE OF CALIFORNIA, Complainant, v. DESERT CITIES ESCROW, INC., Respondent.	File No.: 963-2369 ACCUSATION IN SUPPORT OF REVOCATION OF CALIFORNIA ESCROW AGENT'S LICENSE

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

I.

Respondent Desert Cities Escrow, Inc. ("Desert Cities") is an escrow agent licensed by the California Commissioner of Business Oversight ("Commissioner") pursuant to the California Escrow Law (Fin. Code, §§ 17000 et seq.) ("Escrow Law").

II.

On or around November 6, 2012, the Department of Corporations, currently the Department of Business Oversight ("Department") commenced a regulatory examination of Desert Cities at its

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licensed office located at 73726 Alessandro Drive, Palm Desert, California 92260 ("73726 Alessandro"). However, the Department's examiner ("Examiner") arrived to find the office locked and not operating business that day. On November 8, 2012, the Examiner returned to Desert Cities' office and was immediately informed by Timothy P. Benoit ("Benoit"), the president and owner of Desert Cities, that Desert Cities may surrender its license and was in the process of moving to a new location. Desert Cities was to submit documentation of its change of business address and the regulatory examination was to be rescheduled.

On November 9, 2012, the Department received a written notice that Desert Cities was moving to 72667 Skyward Way, Palm Desert, CA 92260 ("72667 Skyward Way"). On November 14, 2012, an amended license stating the new address of 72667 Skyward Way was issued to Desert Cities.

On or around November 14 and 29, 2012, the Department attempted to contact Desert Cities by phone to reschedule the regulatory examination, but Desert Cities did not return the phone calls or respond. On or around December 18, 2013, a phone call was made to Desert Cities at the phone number that was taped to the door of Desert Cities' previous office at 73726 Alessandro, and a message was left requesting Desert Cities to call the Department's phone number to reschedule the regulatory examination. On or around January 2, 2013, a fourth and final phone call was made to Desert Cities and a message was left directing Desert Cities to respond by contacting the Department. The Department received no response.

On June 7, 2013, the Department discovered that 72667 Skyward Way was a vacant residence with a "For Sale" sign posted by Keller Williams Realty. To date, Desert Cities has not notified or obtained the approval of the Commissioner to change its business address from 72667 Skyward Way to a new location, in violation of Financial Code section 17213.1. Moreover, Desert Cities has not notified or obtained approval for changing its location of its books and records from 72667 Skyward Way to a new location, in violation of Title 10, California Code of Regulations, section 1730.

III.

Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to file an annual audit report containing audited financial statements within one hundred five (105) days

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after the close of their fiscal year. Desert Cities' fiscal year-end is December 31st. Accordingly, Desert Cities was required to file its annual audit report for the fiscal year ended December 31, 2012 ("2012 annual audit report") on or before April 15, 2013. Desert Cities did not file its 2012 annual audit report by the deadline of April 15, 2013.

On or around April 25, 2013, the Department sent via certified mail to Desert Cities at 72667 Skyward Way a letter demanding that Desert Cities submit its 2012 annual audit report within ten days of the date of the letter. On or around May 8, 2013, the letter was returned as undeliverable. To date, the Commissioner has not received Desert Cities' 2012 annual audit report.

IV.

Pursuant to Financial Code section 17207, all licensees under the Escrow Law are required to pay an annual license fee not to exceed two thousand eight hundred dollars ($2,800) for each office or location. To date, Desert Cities has not paid the annual license fee of $2,800 (Invoice No. ES0183) that was due on June 30, 2013.

V.

Financial Code section 17405 provides in pertinent part:

> (a) The business, accounts and records of every person performing as an escrow agent, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice . . .
>
> (b) Any person subject to this division shall, upon request, exhibit and allow inspection and copying of any books and records by the commissioner or his or her authorized representative.

Financial Code section 17213.1, subdivision (a) provides in pertinent part:

> An escrow agent's business shall not be removed from the premises or address shown on the license without the prior approval of the commissioner, and notice of any intended change shall be transmitted to the commissioner not less than 30 days prior to the date of the intended change of location . . . .

Title 10, California Code of Regulations, section 1730, subdivision (b) states, "An escrow agent shall notify the Commissioner in writing of the location of its books, records and accounts. Such books, records and accounts shall be maintained at such location unless the escrow agent

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notifies the Commissioner in writing at least 15 days prior to changing the location of such books."

Financial Code section 17406, subdivision (a) provides:

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

Financial Code section 17602.5 provides in pertinent part:

> If any licensed escrow agent fails to make any reports required by law or by the commissioner within ten (10) days from the day 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 17207, subdivision (e) provides in pertinent part:

> (1) Each escrow agent shall pay to the commissioner for the support of this division for the ensuing year an annual license fee not to exceed two thousand eight hundred dollars ($2,800) for each office or location . . . .

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.

IV.

The Complainant finds that, by reason of the foregoing, Desert Cities Escrow, Inc. has violated Financial Code sections 17213.1, 17207, 17405, 17406, and 17602.5, and Title 10, California Code of Regulations, section 1730, which constitute grounds for the revocation of its escrow agent's license pursuant to Financial Code section 17608.

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WHEREFORE, IT IS PRAYED that the escrow agent's license of Desert Cities Escrow, Inc. be revoked.

DATED: September 13, 2013
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By_____
Sophia C. Kim
Corporations Counsel

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