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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. CTC ESCROW, INC., Respondent.	File No.: 963-2433 **(1) ACCUSATION; and** **(2) ORDER IMPOSING PENALTIES PURSUANT TO FINANCIAL CODE SECTION 17408**

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

I.

Respondent CTC Escrow, Inc. ("CTC Escrow" or, alternatively, “Respondent”) is an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California (Fin. Code, §§ 17000 et seq.) ("Escrow Law"). CTC Escrow has its principal place of business located at 5777 W. Century Blvd., Suite 1225, Los Angeles, California. Jonathan Spica (“Spica”) is CTC Escrow’s president and owner.

II.

Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to

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file an annual audit report containing audited financial statements ("annual audit report") within one hundred five (105) days after the close of their fiscal year. CTC Escrow's fiscal year-end is December 31st. Accordingly, CTC Escrow was required to file its annual audit report for the fiscal year ended December 31, 2009, on or before April 15, 2010.

On or about November 9, 2009, the Commissioner notified CTC Escrow in writing that its audit report was due by April 15, 2010. In his reminder letter, the Commissioner further notified Respondent of the fact that its failure to file an annual report by April 15th could result in the imposition of penalties calculated at $100.00 per day for the first five days the report is overdue and $500.00 per day thereafter, in accordance with the provisions of Financial Code section 17408.

On April 15, 2010, CTC Escrow failed to submit its annual audit report to the Commissioner.

On or about May 19, 2010, the Commissioner issued a written demand for the imposition of penalties against CTC Escrow concerning the annual audit report that was due on April 15, 2010. According to the Commissioner's demand letter, if the annual audit report was not received before May 29, 2010, penalties would begin to accrue against CTC Escrow in accordance with section 17408 of the Financial Code. Respondent has yet to file the annual audit report as required under Financial Code section 17406. Since the May 29, 2010 filing deadline imposed by the demand letter, CTC Escrow's annual audit report is two hundred thirty-nine (239) days late, as of the date of the Accusation and Order. Accordingly, pursuant to Financial Code section 17408, Respondent owes the Commissioner penalties in the amount of one hundred seventeen thousand five hundred dollars ($117,500.00), calculated at one hundred dollars ($100.00) per day for the first five days the report was overdue and five hundred dollars ($500.00) per day thereafter.

Under Financial Code section 17207, all licensees are required to pay an annual assessment to the Commissioner. In accordance with section 17207, CTC Escrow has failed to pay its annual assessment for the past two (2) years. On or about February 2, 2010, the Commissioner issued an order revoking Respondent's escrow agent's license for its failure to pay the 2009 annual assessment; the order was to take effect on February 23, 2010. In accordance with the Administrative Procedure Act (Govt. Code, §§ 11500 et seq.), a Notice of Defense form was included with the Commissioner's revocation order. Spica returned the Notice of Defense, requesting a hearing on the Commissioner's

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February 2, 2010 order. When the Commissioner's special administrator contacted Spica to discuss his hearing request, Spica claimed that he had in fact paid the annual assessment. The special administrator requested Spica provide her with proof of his payment, *i.e.*, a cancelled check, which Spica could not provide. Thereafter, the special administrator and Spica agreed that he would provide the Commissioner with another payment in exchange for a "non-effectiveness letter" thereby preventing the revocation order from taking effect. On or about February 23, 2010, upon receipt of Spica's assessment payment, the Commissioner issued the non-effectiveness letter as promised; however, Spica's payment was returned by the bank for non-sufficient funds and no additional payments have been received from the Respondent.

Finally, CTC Escrow has failed to file its escrow liability report for the preceding twelve (12) months which ended December 31, 2009. The escrow liability report was due on or before February 15, 2010, in accordance with section 17348 of the Financial Code. In light of CTC Escrow's failure to submit its escrow liability report, on or about March 2, 2010, the Commissioner's examiner attempted to contact the Respondent's representative. The examiner telephoned CTC Escrow's approved escrow manager, Sheri Hendricks, who told her that she had been laid off by the company and that to her knowledge Respondent's books and records remained with Spica. Ms. Hendricks also stated that CTC Escrow had been operating out of Spica's mortgage company's premises.

On or about March 15, 2010, the examiner made a visit to the licensed location at 5777 West Century Blvd., Suite 1225, Los Angeles, California, which is a residential address. The examiner attempted to make contact with the licensee's representatives by ringing the doorbell; however, no person answered the door. Thereafter, the examiner telephoned Spica. After the examiner had left several telephone messages for Spica, he finally returned the examiner's calls, stating that the company lacked sufficient funds to continue its operations. Concerned that there might be trust account shortages, the examiner requested Spica immediately fax her a copy of the Respondent's trial balance. Spica responded that the trial balance was not available as CTC Escrow could no longer afford to pay Ms. Hendricks, Respondent's approved escrow manager, nor its accountant, nor First American SMS (Respondent's escrow software provider). Spica further stated that it was his intention to surrender the Respondent's escrow agent's license. Despite the Commissioner's

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examiner's request, Respondent has yet to provide the Commissioner with a copy of the requested trial balance.

On the basis of the foregoing, CTC Escrow violated section 17200.8 of the Financial Code, in that it failed to have an approved manager at its licensed location. Respondent has also failed to notify the Commissioner of a change in its licensed location in violation of Financial Code section 17213.1 and California Code of Regulations, title 10, section 1730, in that it has removed CTC Escrow's books and records from the licensed location, and the present location of the Respondent's books and records remains unknown. Finally, CTC Escrow violated Financial Code section 17404 and California Code of Regulations, title 10, section 1732.2, in that it has failed to maintain its books and records in accordance with the Escrow Law.

III.

Financial Code section 17200.8, subdivision (a), provides as follows:

> (a) Within the organization of each escrow agent corporation, either as an owner, officer, or employee, there shall be one or more persons possessing a minimum of five years of responsible escrow or joint control experience to be stationed at the main office of the corporation and one or more persons possessing a minimum of four years of responsible escrow or joint control experience stationed at each branch. At least one such qualified person shall be stationed on duty at each business location licensed by this division during the time the location is open for business. A person who has satisfied educational requirements established by the commissioner may substitute education for up to one year of experience.

Financial Code section 17207 provides in pertinent part as follows:

> (e)(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.
>
> (2) On or before May 30 in each year, the commissioner shall notify each escrow agent by mail of the amount of the annual license fee levied against it, and that the payment of the invoice is payable by the escrow agent within 30 days after receipt of notification by the commissioner.
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> (3) If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the annual license fee, of 10 percent of the fee for each month or part of a month that the payment is delayed or withheld.

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(4) If an escrow agent fails to pay the amount due on or before the June 30 following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company.

Financial Code section 17213.1, subdivision (a), provides as follows:

(a) 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; provided, however, that the commissioner may waive the 30-day notice requirement when the move is occasioned by fire, emergency, or other catastrophe. The commissioner's approval shall be granted or denied within 30 days from the date of the commissioner's receipt of the licensee's request containing such information as the commissioner may require.

Financial Code section 17348 provides as follows:

In order to permit Fidelity Corporation to fulfill its obligation under this chapter, the commissioner shall furnish a list of all persons licensed under this division as of December 31 of each year and a copy of an escrow liability schedule filed with the commissioner. Each member on or before February 15 shall furnish to the commissioner and Fidelity Corporation the schedule of its escrow liability for each of its licensed locations as of the last day of each month for the preceding 12 months which ended December 31. A list of officers, directors, stockholders, trustee, agents, managers, and employees as of that date shall also be submitted to the Fidelity Corporation, with the schedule. The schedule shall be in the form and contain such information as the commissioner may require.

Financial Code section 17404 provides as follows:

Every person subject to this division shall keep and use in its business, books, accounts, and records which will properly enable the commissioner to determine whether the escrow functions performed by such person comply with the provisions of this division and with all rules made by the commissioner under this division.

Financial Code section 17406, subdivision (a), provides as follows:

(a) 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 the calendar or fiscal year, as applicable. At that time, each licensee shall also file additional relevant information as the commissioner may require.

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Financial Code section 17408, subdivisions (b)-(e), provides as follows:

> (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.
>
> (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.
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> (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.
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> (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 made.

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 as follows:

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

California Code of Regulations, title 10, section 1730 provides in pertinent part as follows:

> (a) An escrow agent who is engaged in the business of receiving escrows

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> specified in subdivision (c) of Section 17312 of the Financial Code and is required to be a member of Escrow Agents' Fidelity Corporation shall have its business offices located in the State of California and shall maintain its books, records and accounts in the State of California . . .
>
> (b) 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 notifies the Commissioner in writing at least 15 days prior to changing the location of such books.

California Code of Regulations, title 10, section 1732.2 provides in pertinent part as follows:

> (a) An escrow agent shall establish and maintain currently the following books with reference to its escrow accounts:
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> (1) Escrow ledger containing a separate ledger sheet for each escrow;
>
> (2) Escrow liability controlling account;
>
> (3) Cash receipt and disbursement journal or a file containing copies of all receipts and checks and/or check stubs of checks issued by the escrow agent as a medium of posting to the records referred to in subsections (1) and (2) in which case adding machine tapes of totals of receipts and checks shall be retained. The records referred to in subsections (1) and (2) shall be reconciled at least once each month with the bank statements of the "trust" or "escrow" account. The records referred to in subsection (1) shall be reconciled at least once each week with the escrow liability controlling account referred to in subsection (2).

IV.

PRAYER FOR ORDER REVOKING CTC ESCROW, INC.'S ESCROW AGENT'S LICENSE PURSUANT TO FINANCIAL CODE SECTION 17608

The Complainant finds that, by reason of the foregoing, CTC Escrow, Inc. has violated Financial Code sections 17200.8, 17207, 17213.1, 17404, and California Code of Regulations, title 10, sections 1730 and 1732.2 which constitute grounds for the revocation of its escrow agent's license pursuant to Financial Code section 17608, subdivision (b).

Additionally, the Complainant finds that, by reason of the foregoing, CTC Escrow, Inc. has violated Financial Code sections 17348 and 17406, which constitute grounds for the revocation of its

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escrow agent's license under Financial Code section 17602.5.

WHEREFORE, IT IS PRAYED that the escrow agent's license of CTC Escrow, Inc. be revoked pursuant to Financial Code section 17608.

V.

ORDER IMPOSING PENALTIES PURSUANT TO FINANCIAL CODE SECTION 17408

The Commissioner finds that CTC Escrow, Inc. failed to file its annual audit report for its fiscal year ended December 31, 2009, as was required under Financial Code section 17406, which is ground for the imposition of penalties under Financial Code section 17408.

NOW THEREFORE the Commissioner having found that CTC Escrow, Inc. failed to timely file its annual audit report containing audited financial statements for its fiscal year ended December 31, 2009, as required by Financial Code section 17406, it is hereby ordered, pursuant to Financial Code section 17408, that CTC Escrow, Inc. pay the Commissioner the sum of one hundred seventeen thousand five hundred dollars ($117,500.00), as of the date of this Accusation and Order, and said penalties shall continue to accrue at the rate of five hundred dollars ($500.00) per day until the report is filed.

DATED: January 26, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner
Enforcement Division

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