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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. CLEAR ESCROW, INC., Respondent.	File No.: 963-2545 **ACCUSATION IN SUPPORT OF REVOCATION OF ESCROW AGENT'S LICENSE**

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

I.

Clear Escrow, Inc. ("Respondent") is an escrow agent licensed by the California Corporations Commissioner ("Commissioner") pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.).

II.

Respondent submitted its license for surrender, on or about May 10, 2012. Pursuant to California Financial Code section 17600, an escrow agent's license remains in effect until surrendered, revoked, or suspended and a license is not surrendered until the Commissioner has

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reviewed and accepted the closing audit report, a determination has been made by the Commissioner that acceptance of the surrender is in the public interest, and tender of the license is accepted in writing by the Commissioner.

The Commissioner reviewed Respondent's annual report for the period ending December 31, 2011 and discovered that Respondent is not in compliance with the liquid asset and tangible net worth requirements of California Financial Code section 17210. Further, Respondent's trust accounts have a total undetermined difference of $256,064.84. On May 18, 2012, Respondent was notified of its liquid asset and tangible net worth deficiencies. Respondent was further notified of the undetermined difference in its trust accounts, and was required to provide a proper reconciliation, with no undetermined difference, for each of the banks.

In May 2012, Respondent was notified of the surrender process, the reports it had to produce, and the actions it had to take in order for the Commissioner to make a determination whether to accept Respondent's license for surrender, including, but not limited to, properly reconciling its trust accounts, transferring all funds in open escrows to another escrow company or escheated to the state, and submitting its closing audit.

Respondent failed to respond, comply with the surrender process, produce its closing audit, and provide a proper reconciliation of its trust accounts.

On September 6, 2012, Respondent was notified that the Commissioner had not received its closing audit. Respondent was further notified that it was responsible for the proper treatment of all remaining trust funds and the Commissioner had to be kept informed of the location of its escrow files and records. Respondent was required to produce its closing audit within ten (10) days, and was further notified that its failure to respond regarding the closing audit would result in a revocation of its license, pursuant to California Financial Code section 17602.5.

Respondent has yet to comply with the Commissioner's demands for reports, provide a proper reconciliation of its trust accounts, and comply with the surrender requirements in violation of California Financial Code sections 17602.5, 17210, and 17600.

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III.

Pursuant to California Financial Code section 17202, Respondent was required to maintain a surety bond in the minimum amount of $25,000.00. On August 13, 2012, Respondent's surety bond was canceled. The Commissioner has not received proof of reinstatement or replacement of Respondent's surety bond as required by California Financial Code section 17202.

IV.

Pursuant to California Financial Code section 17207, a licensee under the Escrow Law is required to pay an annual assessment in an amount not to exceed $2,800.00. Respondent has failed to pay its 2012-2013 assessment of $2,800.00 in violation of California Financial Code section 17207.

V.

California Financial Code section 17600 provides:

> (a) An escrow agent's license remains in effect until surrendered, revoked, or suspended.
> (b) A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall notify the commissioner in writing and, at that time, tender the license and all other indicia of licensure to the commissioner. Within 105 days of the written notice to the commissioner, the licensee shall submit to the commissioner, at its own expense, a closing audit report as of the date the license is tendered to the commissioner for surrender, or for another period as the commissioner may specify, to be performed by an independent certified public accountant. The closing audit shall include, but not be limited to, information required by the commissioner, a bank reconciliation of the trust account, and a verified statement from a certified public accountant confirming lawful disbursement of funds. A license is not surrendered until the commissioner has reviewed and accepted the closing audit report, a determination has been made by the commissioner that acceptance of the surrender is in the public interest, and tender of the license is accepted in writing by the commissioner.

California Financial Code section 17602.5 provides:

> 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, or fails to include therein any matter required by law or by the commissioner, such failure shall constitute grounds for the suspension or revocation of the license held by such escrow agent.

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California 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.

VI.

The Commissioner finds that, by reason of the foregoing, Respondent has violated California Financial Code sections 17202, 17207, 17210, 17600, and 17602.5. These violations constitute grounds for revocation of Respondent's escrow agent's license.

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

December 18, 2012
San Diego, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
AFSANEH EGHBALDARI
Corporations Counsel

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