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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

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11 In the Matter of THE COMMISSIONER OF) File No.: 963-2526
BUSINESS OVERSIGHT,)
12)
13 Complainant,) ACCUSATION IN SUPPORT OF ORDER
14 vs.) REVOKING ESCROW AGENT’S LICENSE
15 GREAT PERFORMANCE ESCROW, INC.,) PURSUANT TO FINANCIAL CODE
16 Respondent.) SECTION 17608
17)
18)
19)

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21 The Complainant, the Commissioner of the California Department of Business Oversight
22 (formerly the Commissioner of Corporations¹; hereafter, “Commissioner” or “Complainant”), is
23 informed and believes and, based upon such information and belief, alleges and charges as follows:

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26 ¹ Pursuant to the Governor’s Reorganization Plan 2, the Department of Corporations and Department
27 of Financial Institutions merged to become the Department of Business Oversight effective July 1,
28 2013.

1 **I.**

2 **INTRODUCTION**

3 Great Performance Escrow, Inc. (“Respondent”) is an escrow agent first licensed on May 6,
4 2008 by the Department of Corporations pursuant to the Escrow Law of the State of California (Fin.
5 Code, § 17000 et seq.).²

6 Respondent is a suspended California corporation with its licensed place of business located
7 at 2640 East Garvey Avenue South, Suite 107, West Covina, California, 91791 and its registered
8 agent for service located at 8141 East Second Street, Suite 402, Downey, California, 90241.

9 At all relevant times, Linda M. Anguiano has been Respondent’s president and registered
10 agent.

11 On September 29, 2014, the Commissioner issued to Respondent an Order to Discontinue
12 Escrow Activities Pursuant to Financial Code Section 17415 (“Order”) which was sent by certified
13 mail to Respondent’s licensed address of record. Pursuant to the Order, Respondent was to
14 immediately discontinue acceptance of any new escrow or joint control business and of money,
15 documents, or other property in connection therewith. This Order remains in full force and effect
16 until further order of the Commissioner.

17 Based on the foregoing findings of multiple and ongoing violations of the Escrow Law, as set
18 forth more fully below, the Commissioner seeks to revoke the escrow agent’s license issued to
19 Respondent.

20 **II.**

21 **VIOLATIONS OF THE ESCROW LAW**

22 1. Liquid and Tangible Net Worth Deficiencies; Failure to Make Reports

23 Financial Code section 17210, subdivision (a), provides:

24 An escrow agent licensed on or after January 1, 1986, shall maintain at all
25 times a tangible net worth of fifty thousand dollars (\$50,000), including liquid
26 assets of at least twenty-five thousand dollars (\$25,000) in excess of current
27 liabilities.

28 ² All code references are to the Financial Code unless otherwise stated.

1 Financial Code section 17602.5 provides in pertinent part:

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

7 To facilitate the Commissioner's assessment of a licensee's compliance with the minimum
8 financial requirements of section 17201, every licensee under the Escrow Law is required by
9 Financial Code section 17406 to file an annual report containing audited financial statements within
10 105 days after the close of its fiscal year ("annual audit report").

11 The Commissioner's review of the annual audit report filed by Respondent for the period
12 ended November 30, 2012 disclosed a liquid asset deficiency in the amount of at least \$29,998.00 and
13 a tangible net worth deficiency of at least \$24,949.00, in violation of section 17210.

14 On or about April 18, 2013, the Commissioner made a written demand of Respondent to
15 provide proof of correction of the liquid asset and tangible net worth deficiencies within 30 days of
16 the date of the letter.

17 On or about May 21, 2013, the Commissioner granted Respondent's request for an extension
18 to resolve the capital deficiencies and required Respondent to present a plan to cure the capital
19 deficiencies not to exceed 90 days, or by August 31, 2013. Additionally, the Commissioner
20 demanded that Respondent provide a copy of its financial statement for April 2013.

21 On or about June 13, 2013, the Commissioner informed Respondent that the licensee's plan to
22 cure its capital deficiencies would be accepted provided financial statements were submitted for June
23 and July of 2013. Additionally, the Commissioner noted that the April 2013 financial statement
24 remained outstanding.

25 On or about July 3, 2013, a regulatory examination was commenced by the Commissioner's
26 examiner which disclosed that for the period ending June 30, 2013, Respondent had a liquid asset
27 deficiency in the amount of at least \$29,426.00 and a tangible net worth deficiency of at least
28 \$23,216.64, in violation of section 17210.

On or about November 20, 2013, Respondent submitted a letter to the Commissioner

1 acknowledging that liquid asset and tangible net worth requirements remained unmet and requested
2 “as much time as possible to comply with the minimum requirements.”

3 The Commissioner finds that Respondent is in violation of section 17201 for failing to
4 provide evidence that it has cured the liquid asset and tangible net worth deficiencies and failing to
5 make a report required by the Commissioner, in violation of section 17602.5.

6 2. Failure to File Annual Audit Report; Accrual of Penalties

7 Financial Code section 17406 provides in pertinent part:

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

14 . . . (e) A licensee shall make other special reports to the
15 commissioner as the commissioner may from time to time require.

16 Financial Code section 17408, subdivision (b), provides:

17 (b) The commissioner may impose, by order, a penalty on any person who fails, within the
18 time specified in any written demand of the commissioner, (1) to make and file with the
19 commissioner any report required by law or requested by the commissioner, or (2) to furnish
20 any material information required by the commissioner to be included in the report. The
21 amount of the penalty may not exceed one hundred dollars (\$100) for each day for the first
22 five days the report or information is overdue, and thereafter may not exceed five hundred
23 dollars (\$500) for each day the report or information is overdue.

24 On October 8, 2013, the Commissioner mailed Respondent a letter reminding that, pursuant to
25 section 17406, every licensee under the Escrow Law is required to file an annual report containing
26 audited financial statements within 105 days after the close of its fiscal year. The letter noted that
27 Respondent’s annual audit report for the year ending November 30, 2013 was due no later than
28 March 17, 2014.

On March 11, 2014, the Commissioner sent a letter to Respondent granting its written request
to extend the March 17 deadline for filing its annual audit report to March 31. The Commissioner’s

1 letter informed that failure to file the annual audit report by March 31, 2014 could result in
2 assessment of penalties, a special examination, and/or administrative action.

3 On March 27, 2014, Respondent informed the Commissioner that it would not be able to
4 submit its annual audit report by the March 31st deadline and requested an additional 15-day
5 extension. The Commissioner's examiner contacted Respondent by telephone on March 28 and
6 advised that Respondent's second extension request was not granted.

7 To date, Respondent has not filed its annual audit report as required by section 17406.
8 Pursuant to the filing requirement set forth in section 17408, Respondent is subject to a penalty of up
9 to \$100.00 for each of the first five days that its annual audit report was overdue and a penalty of
10 \$500.00 for each day thereafter, and continuing to accrue until the report is received.

11 3. Nonpayment of Annual Assessment and Examination Fees

12 Financial Code section 17207, subdivision (e), provides in pertinent part:

13 The commissioner shall charge and collect the following fees and assessments:

14 . . . (e) (1) Each escrow agent shall pay to the commissioner for the support of this division for
15 the ensuing year an annual license fee not to exceed two thousand eight hundred dollars
16 (\$2,800) for each office or location.

17 . . . (3) If payment is not made within 30 days, the commissioner may assess and collect a
18 penalty, in addition to the annual license fee, of 10 percent of the fee for each month or part of
19 a month that the payment is delayed or withheld.

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

23 Financial Code section 17405.1, subdivision (a), provides in pertinent part:

24 The cost of every inspection and examination of a licensee or other person subject to this
25 division shall be paid to the commissioner by the licensee or person examined, and the
26 commissioner may maintain an action for the recovery of these costs in any court of
27 competent jurisdiction

28 Respondent has not paid its annual license fee for the 2013-2014 year (invoice #ES0304) in
the amount of \$2,800.00 plus penalties of 10 percent per month after June 30 of the year they were
assessed. Unpaid assessments are grounds for revocation of an escrow agent's license pursuant to

1 section 17207. Additionally, Respondent has an outstanding examination invoice of \$3,936.11, in
2 violation of section 17405.1.

3 4. Unauthorized Removal of Business from Licensed Location

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

5 An escrow agent’s business shall not be removed from the premises or address
6 shown on the license without the prior approval of the commissioner, and
7 notice of any intended change shall be transmitted to the commissioner not less
8 than 30 days prior to the date of the intended change of location; provided,
9 however, that the commissioner may waive the 30-day notice requirement
10 when the move is occasioned by fire, emergency, or other catastrophe

11 Subdivision (b) of section 1730 of Title 10 of the California Code of
12 Regulations provides in pertinent part:

13 An escrow agent shall notify the Commissioner in writing of the location of its
14 books, records and accounts. Such books, records and accounts shall be
15 maintained at such location unless the escrow agent notifies the Commissioner
16 in writing at least 15 days prior to changing the location of such books.

17 Financial Code section 17405, subdivision (a), provides in pertinent part:

18 The business, accounts, and records of every person performing as an escrow agent, whether
19 required to be licensed under this division or not, are subject to inspection and examination by
20 the commissioner at any time without prior notice

21 In or about October 2014, Complainant discovered that Respondent’s main telephone number
22 was disconnected. On November 12, 2014, the Commissioner conducted a special examination of
23 Respondent’s licensed location to ascertain the status of escrow business operations and confirm
24 compliance with the Order. Upon arriving at Respondent’s licensed location on a Wednesday during
25 regular business hours, the Commissioner’s examiner observed that the office doors were locked and
26 the business appeared to be closed. An undated note was posted on the door stating: “We stepped
27 out for the moment. We will be back soon. Thank you. Great Performance Escrow, Inc. Staff.”

28 On November 17, 2014, the Commissioner’s examiner returned to Respondent’s licensed
location on a Monday during regular business hours and, again, observed that the office doors were
locked and the business appeared to be closed. The same undated note remained posted on the door.

1 The examiner also noted that the building directory indicated the tenant at suite 107 was not
2 Respondent's but a business called "Community Loan."

3 Based on the Commissioner's special examination and unsuccessful attempts to communicate
4 with Respondent, the Commissioner finds that that Respondent has closed its business or changed the
5 location of its books, records, and accounts without first notifying the Commissioner in writing in
6 violation of sections 17213.1 and 1730. As a result, Respondent has denied the Commissioner the
7 right to inspect and examine its business, accounts, and records in violation of section 17405.

8 **IV.**
9 **CONCLUSION**

10 Financial Code section 17608 provides in pertinent part:

11 The commissioner may, after notice and a reasonable opportunity to be heard,
12 suspend or revoke any license if [s]he finds that:

- 13 (a) The licensee has failed to maintain in effect a bond required under the
14 provisions of this division.
- 15 (b) The licensee has violated any provision of this division or any rule made by
16 the commissioner under and within the authority of this division.
- 17 (c) Any fact or condition exists which, if it had existed at the time of the
18 original application for such license, reasonably would have warranted the
19 commissioner in refusing originally to issue such license

19 Complainant finds, by reason of the foregoing, that Respondent, Great Performance Escrow,
20 Inc., has violated Financial Code sections 17207, 17210, 17213.1, 17405, 17405.1, 17406, 17408,
21 17602.5 and subdivision (b) of section 1730 of Title 10 of the California Code of Regulations and
22 that such violations constitute facts or conditions which, if they had existed at the time of
23 Respondent's original application for the Escrow Agent's license, would have warranted the
24 Commissioner in refusing to originally issue such license.

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1 WHEREFORE, IT IS PRAYED that the escrow agent’s license issued to Great Performance
2 Escrow, Inc. be revoked.

3 Dated: February 18, 2015
4 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

6 By _____
7 MIRANDA LEKANDER
8 Senior Corporations Counsel
9 Enforcement Division
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