

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
5 Department of Corporations
320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

7 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

12 In the Matter of THE CALIFORNIA) Case No.: 963-2090
CORPORATIONS COMMISSIONER,)
13)
14 Complainant,) NOTICE AND SUMMARY OF FINDINGS
Pursuant to CALIFORNIA FINANCIAL
15 vs.) CODE SECTION 17621
16 ESCROW DIVERSIFIED, INC.,)
17 Respondent.)
18)
19)

20 TO: ESCROW DIVERSIFIED, INC.,
21 7561 Center Avenue, Building 48
Huntington Beach, California 92647

22 UNION BANK OF CALIFORNIA
23 Escrow Industry Group 912
24 P.O. Box 513840
25 Los Angeles, California 90051-3840

26 Please take notice that the California Corporations Commissioner finds:

- 27 1. On or about October 11, 2007, a special examination of the books and records of
28 Escrow Diversified, Inc. (“Diversified”) was commenced by the California Corporations
Commissioner (“Commissioner”) after the Commissioner received information that Diversified trust

1 checks were being returned for non-sufficient funds. The special examination revealed the
2 following:

3 a. Commencing in or about April 2006, and continuing through at least September 2007,
4 Diversified transferred or otherwise disbursed trust funds totaling at least \$162,154.12 to its general
5 and/or payroll accounts or otherwise for the payment of business operating expenses or other non-
6 trust related expenses in violation of Financial Code sections 17409 and 17414(a)(1) and California
7 Code of Regulations, title 10, sections 1738 and 1738.2.

8 b. The unauthorized disbursements described in paragraph 1 above have caused a
9 shortage of at least \$162,154.12 to exist in the trust account of Escrow Diversified, Inc. in violation
10 of California Code of Regulations, title 10, section 1738.1.

11 c. Diversified has failed to perform monthly bank reconciliations on the trust account
12 since December 31, 2006 in violation of Financial Code section 17404 and California Code of
13 Regulations, title 10, section 1732.2.

14 2. The Commissioner has demanded that Escrow Diversified, Inc. cure the trust account
15 shortage described in paragraph b above, however, Diversified, Inc. has failed to cure the shortage
16 and continues in its failure to cure the shortage.

17 3. California Financial Code section 17621 provides in pertinent part:

18 Whenever it appears to the Commissioner that any escrow agent subject
19 to this division:

20 ...

21 (b) Is conducting escrow business in an unsafe and unauthorized manner;

22 (c) Has violated its charter or any law of the State of California;

23 ...

24 the commissioner shall dispatch a written notice and summary of findings,
25 as referred to in Section 17415, to the principal officer of the escrow agent
26 involved or to its manager of record; and such escrow agent shall be afforded
27 a reasonable opportunity to comply or otherwise effect such remedy as the
28 commissioner may deem acceptable. However, should the escrow agent so
notified fail to comply within five days of receipt of the notice, or as soon as
it appears to the commissioner that no compliance is possible, or in the event
prompt delivery of the prescribed written notice is impossible, the commissioner
may forthwith take possession of the property and business of such escrow agent
and retain possession until such escrow agent resumes business or its affairs be
finally liquidated as provided in this chapter. The escrow agent, with the consent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

4. Based upon the foregoing, the Commissioner finds that Diversified has violated Financial Code sections 17404, 17409 and 17414 and California Code of Regulations, title 10, sections 1732.2, 1738, 1738.1 and 1738.2, and is conducting escrow business in an unsafe and unauthorized manner, that no compliance is possible.

5. Pursuant to Financial Code sections 17621 and 17630, it is also necessary that a conservator be appointed as specified in the accompanying Order Appointing Peter Davidson of the law firm Moldo Davidson Fraioli Seror & Sestanovich LLP as Conservator Pursuant to Financial Code section 17630.

Dated: December 5, 2007
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel