

1 MARY ANN SMITH
Deputy Commissioner
2 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
3 Department of Corporations
320 West 4th Street, Ste. 750
4 Los Angeles, California 90013-2344
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5 Attorneys for Complainant

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

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11 In the Matter of THE COMMISSIONER OF) File No.: 963-2549
CORPORATIONS OF THE STATE OF)
12 CALIFORNIA,) NOTICE AND SUMMARY OF FINDINGS
13) PURSUANT TO CALIFORNIA FINANCIAL
Complainant,) CODE SECTION 17621
14)
15 vs.)
16 EFFICIENT SERVICE ESCROW GROUP,)
17 Respondent.)
18)

19 TO: EFFICIENT SERVICES ESCROW GROUP
20 19671 Beach Boulevard, Suite 207
Huntington Beach, California 92648
21
FIRST FOUNDATION BANK
22 18101 Von Karman Avenue, Suite 750
Irvine, California 92612
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24 Please take notice that the Commissioner of Corporations of the State of California finds:

25 1. Efficient Services Escrow Group (“Respondent”), is an escrow agent holding a valid and
26 unrevoked license issued by the Commissioner of Corporations of the State of California
27 (“Commissioner”), pursuant to the Escrow Law of the State of California (California Financial Code
28 sections 17000).

1 2. On or about February 25, 2013, the Commissioner received information from Escrow
2 Agent’s Fidelity Corporation (“EAFC”), the fidelity insurer for the independent escrow industry, that
3 Respondent had notified EAFC on or about February 22, 2013 that Respondent had suffered
4 shortages in its trust accounts totaling \$1,558,339.00. Based upon such information, the
5 Commissioner, by and through staff, commenced a special examination of the books and records of
6 Respondent on or about February 26, 2013.

7 3. The special examination disclosed that Respondent had shortages in its two trust
8 accounts totaling \$1,558,339.00. The special examination disclosed that the shortages were
9 apparently caused by “cyber theft” when funds on deposit in the trust accounts of Respondent were
10 wired out of the country. The respective dates and amounts of the unauthorized wires were
11 December 17, 2012 in the amount of \$432,215.00, January 24, 2013 in the amount of \$563,112.00,
12 and January 30, 2013 in the amount of \$563,112.00.

13 4. At the time the unauthorized wires occurred in January 2013, Respondent was in
14 violation of Financial Code section 17404 and California Code of Regulations, title 10, section
15 1732.2(a)(3), which require escrow agent licensees to reconcile their trust account(s) on a monthly
16 basis. The December 31, 2012 bank account statement for the trust account ending in 2416 clearly
17 showed the unauthorized wire in the amount of \$432,215.00 on December 17, 2012.

18 5. The regulatory examination of Respondent recently completed in September 2012
19 disclosed that Respondent was not maintaining its books and records in accordance with the
20 requirements of the Escrow Law, in particular, its trust account books and records. The Department
21 of Corporations’ examiner discussed the violations of the Escrow Law with respect to the
22 maintenance of proper books and records with Respondent during an exit conference. Respondent
23 had been previously warned during its regulatory examination in 2009 regarding its then failure to
24 maintain proper books and records.

25 6. Based upon the findings of the special examination, on or about February 26, 2013,
26 the Commissioner made written demand to Respondent to cure the \$1,558,339.00 shortage in the
27 trust accounts no later than close of business February 27, 2013. Respondent failed to cure the
28 shortage by close of business February 27, 2013 causing the Commissioner to issue an Order to

1 Discontinue Escrow Activities Pursuant to California Financial Code Section 17415 against
2 Respondent on February 28, 2013..

3 7. Respondent has had seven business days since it was served with the Order to
4 Discontinue Escrow Activities to cure the trust account shortages. Notwithstanding, only
5 \$432,215.00 of the shortage has been cured when Respondent’s bank was able to retrieve the funds
6 from the December 17, 2012 wire. However, trust account shortages totaling \$1,126,224.00 remain.

7 8. Financial Code section 17621 provides in pertinent part:

8 Whenever it appears to the Commissioner that any escrow agent subject
9 to this division:

10 ...

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

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

13 ...

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

27 9. Based upon the foregoing, the Commissioner finds that Respondent has violated
28 Financial Code section 17404 and California Code of Regulations, title 10, section 1732.2, is
conducting escrow business in an unsafe and unauthorized manner, and that no compliance is
possible.

10. 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 A. Davidson As
Conservator Pursuant to California Financial Code Section 17630.

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Dated: March 7, 2013
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Corporations

By _____
Judy L. Hartley
Senior Corporations Counsel
Enforcement Division