JAN LYNN OWEN
California Corporations Commissioner
MARY ANN SMITH
Deputy Commissioner
JENNIFER A. GRANAT (CA BAR NO. 199868)
Senior Corporations Counsel
Department of Corporations
320 West 4th Street, Ste. 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7518 Fax: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

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| In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER,<br><br>Complainant,<br><br>v.<br><br>ASPEN EXPRESS ESCROW SERVICES, INC.,<br><br>Respondent. | File No.: 963-1784<br><br>ACCUSATION TO REVOKE CALIFORNIA ESCROW AGENT'S LICENSE |



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

I.

Respondent Aspen Express Escrow Services, Inc. ("Respondent" or "Aspen Express") is an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California, California Financial Code Section 17000 *et seq*. Aspen Express has a principal place of business at 2605 Camino Del Rio South, Suite 302, San Diego, California 92108.

II.

Pursuant to Financial Code section 17600(b), all licensees under the Escrow Law who submit an application for surrender are required to file a closing audit report ("Closing Audit Report") prepared by an independent certified public accountant within one hundred five (105) days of such application.

On or about May 10, 2012, Respondent notified the Commissioner in writing of its intent to surrender its escrow agent license.

On May 15, 2012, the Commissioner sent a certified letter to Respondent, which was received. The letter notified Respondent that as a condition of license surrender pursuant to Financial Code section 17600(b), the licensee is required to engage a certified public accountant to conduct a closing audit of the licensee's records and report findings of compliance with the Escrow Law within 105 days from the date of application to surrender the license. This period expired August, 2012.

On September 6, 2012, the Commissioner sent another certified letter to Respondent, which was received. This letter advised Respondent that the Closing Audit Report had not been received. Pursuant to Financial Code section 17602.5, Respondent was given an additional ten (10) days to comply. The Commissioner advised Respondent that failure to comply within ten days would result in a referral for revocation of its license.

The additional ten day period expired September 17, 2012 without any response from Respondent.



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To date, Respondent has failed to file its Closing Audit Report.

III.

Pursuant to Financial Code section 17202(a), all licensees under the Escrow Law are required to maintain a surety bond at a minimum of at least $25,000, depending on the licensee's average annual trust fund obligations. Respondent maintained a $50,000 surety bond with Hartford Fire Insurance Company. On or about July 9, 2012, the Commissioner was notified in writing that the surety bond for Aspen Express would be cancelled effective August 20, 2012. To date, Respondent has failed to provide evidence of a bond in effect as required by Financial Code section 17202(a).

IV.

Financial Code section 17202(a) provides in pertinent part:

> At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a bond satisfactory to the commissioner in the amount of at least twenty-five thousand dollars ($25,000). Thereafter, a licensee shall maintain a bond satisfactory to the commissioner . . .

Financial Code section 17600(b) provides in pertinent part:

> 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 . . . 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.

Financial Code section 17602.5 provides in pertinent part:

> 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



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> 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:

> The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:
>
> (a) The licensee has failed to maintain in effect a bond required under the provisions of this division.
>
> (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 . . . .

V.

Complainant finds that, by reason of the foregoing, Aspen Express has violated Financial Code sections 17202, 17600 and 17602.5, and it is in the best interests of the public to revoke the escrow agent's license of Respondent pursuant to Financial Code section 17608.

WHEREFORE, IT IS PRAYED that the California escrow agent's license of Respondent Aspen Express Escrow Services, Inc. be revoked.

DATED: January 31, 2013
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Jennifer A. Granat
Senior Corporations Counsel
Enforcement Division



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