PRESTON DuFAUCHARD
California Corporations Commissioner
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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 |

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*.

II.

Pursuant to Financial Code section 17406, all licensees under the Escrow Law are required to file an annual audit report containing audited financial statements ("Audit Report") within one

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hundred five (105) days after the close of their fiscal year. Respondent's fiscal year-end is December 31. Accordingly, Respondent was required to file its Audit Report for the fiscal year ended December 31, 2008 on or before April 15, 2009.

On or about November 17, 2008, the Commissioner notified Aspen Express in writing of the due date of its Audit Report and the penalties if the report was filed late. Aspen Express failed to file its Audit Report by April 15, 2009.

On or about June 26, 2009, the Commissioner again notified Aspen Express in writing that the Audit Report had not yet been received. This notification further informed Aspen Express that the failure to file the Audit Report may result in an assessment of penalties, the immediate examination of their books and records, and subject their escrow agent's license to suspension and/or revocation.

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

In 2007, Aspen Express was forty-nine (49) days late in filing its Audit Report for fiscal year ended December 31, 2006. On or about November 2, 2007, the Commissioner imposed penalties of $4,900 against Aspen Express for its failure to timely file its 2006 Audit Report, pursuant to Financial Code section 17408.

**III.**

Financial Code section 17406, subdivision (a) provides:

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

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 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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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.

**IV.**

Complainant finds that, by reason of the foregoing, Aspen Express has violated Financial Code section 17406, which constitutes grounds for the suspension of its escrow agent's license.

WHEREFORE, IT IS PRAYED that the escrow agent's license of Aspen Express Escrow Services, Inc. be suspended until the Audit Report is filed or for a period of thirty (30) days, whichever is longer.

DATED: November 5, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Jennifer A. Granat
Senior Corporations Counsel
Enforcement Division



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