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

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. WEST AMERICAN ESCROW, INC., Respondent.	File No.: 963-2415 ACCUSATION

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

I

West American Escrow, Inc. (“Respondent” or “West”) 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.). Respondent has been licensed as an escrow agent since March 7, 2007.

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

State of California – Department of Corporations

hundred and five (105) days after the close of their fiscal year. Respondent's fiscal year end is February 28. Accordingly, Respondent is required to file its audit report on or before June 15 of each year.

On or about January 11, 2010, Complainant notified Respondent in writing that its audit report for the period ending February 28, 2010 was due June 15, 2010. Respondent failed to file the 2010 audit report by June 15, 2010.

On or about June 21, 2010, a follow up letter was sent to Respondent demanding the 2010 audit report be filed no later than July 1, 2009, and notifying Respondent that failure to file the 2010 audit report by July 1, 2010 would result in the company being assessed penalties in the amount of $100.00 per day for the first five days and $500.00 per day for each day thereafter that the 2010 audit report was late. The letter further notified Respondent that failure to file the 2010 audit report by July 1, 2010 could also result in a revocation of its license.

Respondent has yet to submit the 2010 audit report as required by Financial Code section 17406. The 2010 audit report is 213 days late as of the date of this Accusation.

III

Previously, on or about January 23, 2009, Complainant notified Respondent in writing that its audit report for the period ending February 28, 2009 was due June 15, 2009. Respondent failed to file the 2009 audit report by June 15, 2009.

On or about June 29, 2009, a follow up letter was sent to Respondent demanding the 2009 audit report be filed no later than July 9, 2009, and notifying Respondent that failure to file the 2009 audit report by July 9, 2009 would result in the company being assessed penalties in the amount of $100.00 per day for the first five days and $500.00 per day for each day thereafter that the 2009 audit report was late. The letter further notified Respondent that failure to file the 2009 audit report by July 9, 2009 could also result in a revocation of its license.

Respondent has yet to submit the 2009 audit report as required by Financial Code section 17406. The 2010 audit report is 570 days late as of the date of this Accusation.

IV

Respondent previously failed to timely file its 2008 audit report. Respondent failed to file its

State of California – Department of Corporations

2008 audit report until July 7, 2008, which was 21 days late. At that time, the Commissioner sent written notice to Respondent that if future audit reports were not timely filed the Commissioner would assess penalties and possibly take action against the license.

V

Financial Code section 17602.5 provides in pertinent part as follows:

> 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.

VI

Pursuant to Financial Code section 17202, all escrow agent licensees are required to maintain a surety bond. The surety bond of Respondent expired on March 10, 2010, and no replacement has been obtained by Respondent.

On or about March 11, 2010, the Commissioner issued an Order to Discontinue Escrow Activities pursuant to Financial Code Section 17415 for failure to maintain the required surety bond. This Order was served on Respondent on or about March 15, 2010.

Respondent has yet to obtain a proper replacement surety bond in violation of Financial Code section 17202.

VII

Pursuant to Financial Code section 17210, all licensees under the Escrow Law are required to maintain liquid assets of $25,000.00 and a tangible net worth of $50,000.00.

During a regulatory examination of the books and records of Respondent commenced on or about March 3, 2009, it was determined that Respondent did not meet the liquid asset and tangible net worth requirements of Financial Code section 17210. As of February 29, 2009, Respondent had a liquid asset deficiency in the amount of $41,889.21 and a tangible net worth deficiency in the amount of $36,688.21.

On or about August 10, 2009 and February 26, 2001, Respondent was requested to submit evidence that it meets the liquid asset and tangible net worth requirements of Financial Code section

State of California – Department of Corporations

17210. To date, Respondent has failed to prove its meet the liquid asset and tangible net worth requirements of Financial Code section 17210.

VIII

Pursuant to Financial Code section 17207, on or before June 30 of each year, all licensees under the Escrow Law are required to pay an annual assessment in the amount fixed and noticed by the Commissioner on or before May 30 in accordance with Financial Code section 17207.

On or about May 30, 2010, the Commissioner notified Respondent by invoice number ES0662 that the amount of the annual assessment was $2,800.00 and that it was due on or before June 30, 2010. As of the date hereof, Respondent has still not paid its annual assessment to the Commissioner as required by Financial Code section 17207.

IX

Pursuant to Financial Code section 17209, an application for an escrow agent's license is required to contain among other items, (i) the names and addresses of the incorporators, the name and address of the escrow manager meeting the requirements of Financial Code section 17200.8 and a statement supporting such person's qualifications, and (iii) a completed statement of identity and questionnaire ("SIQ") for all stockholders, directors, officers, trustees, managers and other persons participating in the escrow business (other than usual and customary employees who file under Section 17414.1 and 17419) along with their fingerprints.

Pursuant to Financial Code sections 17212.1, 17414.1 and 17419, escrow agents are required to amend their application(s) if there is any change in any of the persons required to be identified in the application(s) and/or if new usual and customary employees have been hired.

In or about March 2010, Tal Tepper, Dan Tepper and Lee Alan Simon began working for Respondent as president, vice-president and escrow manager, respectively. Respondent has never disclosed nor submitted the required SIQ and fingerprints of Dan Tepper to the Commissioner in violation of Financial Code section 17212.1. Respondent further violated Financial Code section 17212.1 by never disclosing nor submitting the required documents on Tal Tepper or Lee Alan Simon until on or about September 7, 2010, almost 6 months after they began working for Respondent. As of the date hereof, Respondent has never responded to the Commissioner's

State of California – Department of Corporations

September 10, 2010 notice of deficiencies in the documents filed on Tal Tepper and Lee Alan Simon.

X

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. . . .

XI

Complainant finds that, by reason of the foregoing, Respondent has violated Financial Code sections 17202, 17207, 17210 and 17212.1 and repeatedly violated Financial Code section 17406, which constitute grounds for the revocation of its escrow agent's license.

WHEREFORE, IT IS PRAYED that the Respondent's escrow agent's license be revoked.

Dated: January 31, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Judy L. Hartley
Senior Corporations Counsel

State of California – Department of Corporations