BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS, COMMISSIONER Complainant, vs. GREGORY TANNENBAUM, Respondent.	File No.: 963-1899 OAH No.: L-2002050206 **FINAL DECISION (AFTER REJECTION OF PROPOSED DECISION) AND ORDER**

I

PROCEDURAL HISTORY

On June 4, 2002, in Los Angeles, California, Milford A. Maron, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter. Complainant, the California Corporations Commissioner, was represented by Michelle Lipton, Corporations Counsel. Respondent, Gregory Tannenbaum, appeared in person and was represented by his counsel, Michael J. Matlaf, Esq. Oral and documentary evidence was received, the record was closed and the matter was submitted for decision.

On June 11, 2002, the Administrative Law Judge submitted a Proposed Decision, which was rejected by the California Corporations Commissioner on September 18, 2002. Pursuant to Government Code Section 11517(c)(2), Gregory Tannenbaum was served with the Notice of Nonadoption of Proposed Decision, and was notified that the case would be decided by the California Corporations Commissioner upon the record, including the transcript of the proceedings held on June 4, 2002, and upon any written argument offered by the parties. On October 11, 2002, the parties submitted written argument.

II

FACTUAL FINDINGS

1. On or about September 19, 2001, Central Escrow, Inc., an escrow agent licensed by the California Corporations Commissioner pursuant to Financial Code Section 17419 of the Escrow Law, submitted an application to employ Gregory Tannenbaum, as an Escrow Assistant.

2. Following the submission of the employment application, Michelle Lipton, Corporations Counsel, made an Accusation on behalf of Demetrios A. Bourtis, the California Corporations Commissioner. The Accusation alleges and charges that Gregory Tannenbaum should be barred from any position of employment, management or control of any escrow agent under Financial Code Section 17423.

3. The California Corporations Commissioner is charged with the duty to enforce the Escrow Law. (Cal. Fin. Code § 17000, et. seq.) The Escrow Law provides that the California Corporations Commissioner may, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any escrow agent, or any other person, if the California Corporations Commissioner finds that the person has been convicted of any offense specified in Section 17414.1 of the Escrow Law, or any other offense reasonably related to the qualifications, functions or duties of a person engaged in the business.[1] The Escrow Law further provides that any person who has committed any offense specified in Section 17414.1 within the past 10 years shall not serve in any capacity as an officer, director, stockholder, trustee, agent, or employee of an escrow agent.[2] The offenses specified in Section 17414.1 of the Escrow Law include robbery, burglary, theft, embezzlement, fraud, fraudulent conversion or misappropriation of property, forgery, bookmarking, or receiving stolen property.[3]

4. A certificate of rehabilitation issued under Penal Code Section 1203.4 does not preclude the California Corporations Commissioner from bringing an action to censure or

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[1] California Financial Code Section 17423(a)(2).
[2] California Financial Code Section 17414.1(a).
[3] California Financial Code Section 17414.1(b)(7.)

suspend for a period not exceeding 12 months, or bar a person from employment, management, or control of any escrow agent.[4]

5. The purpose of the California Corporations Commissioner's power to bar an escrow agent or person from employment, management or control is to protect the public, escrow agent, industry, and the funds on deposit with the escrow agent.

6. Gregory Tannenbaum was convicted of violating Penal Code Section 487.1 (Grand Theft Property) on March 5, 1993, a misdemeanor in the Municipal Court of the Antelope Judicial District, County of Los Angeles, State of California. Gregory Tannenbaum pled nolo contendere and the court found him guilty of Grand Theft Property. The conviction arose out of a situation wherein Gregory Tannenbaum at the age of 22, while being employed as the store manager, embezzled $600.00.

7. On July 20, 2001, the Court entered an order setting aside and vacating the conviction pursuant to Penal Code Section 1203.4.

8. Grand Theft Property is a crime reasonably related to the qualifications, functions and duties of a person engaged in escrow activities.

9. Approximately 10 years has elapsed since the event leading to Gregory Tannenbaum's conviction. Gregory Tannenbaum has not been charged with any other crime.

10. Since his conviction, Gregory Tannenbaum has worked regularly in positions of responsibility in the real estate industry where opportunities were available for malfeasance. During this time, there is no evidence that he has engaged in malfeasance. Gregory Tannenbaum is current on installment obligations, such as rent and credit card bills, participates in charity events, is in a 13-year relationship and is extremely close with his family. Gregory Tannanbaum is contrite for his misbehavior.

11. Gregory Tannenbaum's punishment for the conviction was 26 days of community service, restitution to the victim, a small fine, and three years of unsupervised probation. All have been satisfactorily completed.

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[4] California Financial Code Section 17423(g).

12. Within 10 business days of employment, any person employed by an escrow agent must apply for a certificate to the Escrow Agents Fidelity Corporation, which provides coverage to escrow agents for loss of trust obligations.[5] Escrow Agents Fidelity Corporation issued Gregory Tannenbaum a certificate.

13. After discovering the conviction, Steven C. Thompson, Special Administrator of the Escrow Law, Department of Corporations, notified Central Escrow Inc. Upon discovering the information, Central Escrow, Inc. elected to keep Gregory Tannenbaum under its employment.

III

LEGAL CONCLUSIONS

Pursuant to the foregoing findings of fact, the California Corporations Commissioner makes the following determination of issues:

1. Cause to suspend Gregory Tannenbaum from employment as an Escrow Assistant exits pursuant to Financial Code Section 17423. Gregory Tannenbaum was convicted of Grand Theft Property on March 5, 1993.

2. Grand Theft Property is one of the offenses listed under Financial Code Section 17414.1, and is reasonably related to the qualifications, functions or duties of a person engaged in the escrow business.

3. While the California Corporations Commissioner recognizes that the order setting aside and vacating Gregory Tannenbaum's conviction under Penal Code Section 1203.4 prohibits a mandatory bar under Financial Code Section 17414.1, the California Corporations Commissioner finds that a suspension extending through the 10 year anniversary is consistent with the statutory scheme and is permissible under Financial Code Section 17423.

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[5] Financial Code Section 17300, et. seq.

ORDER

Wherefore, based on the records in this case, including the transcript of proceedings of June 4, 2002, Complainant and Respondents' written arguments, the foregoing, and good cause appearing therefore,

Under Financial Code Section 17423, Gregory Tannenbaum is hereby suspended from the effective date of this order through March 5, 2003, from acting as an Escrow Assistant or in any other position of employment, management or control with an escrow agent where he would:

1. Have access to money or negotiable securities belonging to or in the possession of the escrow agent; and
2. Draw checks upon the escrow agent or the trust accounts of the escrow agent.

During his period of suspension, Gregory Tannenbaum may continue to be employed by an escrow agent in any position, including employment as an Escrow Secretary Assistant with Central Escrow, Inc., that does not involve these responsibilities.

This Decision shall become effective on November 12, 2002.

IT IS SO ORDERED.

DATED: Nov. 12, 2002

DEMETRIOS A. BOUTRIS
California Corporations Commissioner