

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MARY ANN SMITH
Deputy Commissioner
SEAN ROONEY
Assistant Chief Counsel
BLAINE A. NOBLETT (SBN 235612)
Senior Corporations Counsel
320 W. 4th Street, Suite 750
Los Angeles, California 90013-2344
(213) 576-1396 (213) 576-7181 (Fax)
Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of)	FILE NO. 963-2004
)	
THE CALIFORNIA COMMISSIONER OF)	STIPULATION TO FINAL DESIST AND
BUSINESS OVERSIGHT,)	REFRAIN ORDER
)	
Complainant,)	
v.)	
)	
AFFORDABLE ESCROW, INC.,)	
)	
Respondent.)	
)	
)	
)	
)	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Stipulation to Final Desist and Refrain Order (“Stipulation”) is entered into between Affordable Escrow, Inc. (“Affordable”) and the California Commissioner of Business Oversight (“Commissioner”) with respect to the following facts:

RECITALS

A. Affordable is a California corporation in good standing and authorized to conduct business in this State.

B. Affordable is an escrow agent licensed by the Commissioner under the Escrow Law of the State of California (“Escrow Law”) (Fin. Code, § 17000 et seq.). Affordable’s principal place of business is located at 17517 1/2 Chatsworth Street, Granada Hills, California.

C. Yalile Herrera (“Herrera”) is Affordable’s owner and president. Herrera is authorized to enter into this Agreement on behalf of Affordable.

D. On or about September 15, 2014, the Commissioner issued her Notice of Intention to Issue Order Suspending Affordable’s Escrow Agent’s License and Accusation (collectively “Notice of Intention”) under section 17423 of the Financial Code. The Notice of Intention sought to impose a one-week suspension against Affordable for paying inflated and falsely reported messenger service invoices for the purpose of evading corporate taxes in violation of sections 17400, 17404, and 17414 of the Financial Code and title 10, section 1732, of the California Code of Regulations.

E. The Commissioner personally served Affordable with the Notice of Intention on September 16, 2014. Affordable timely filed its Notice of Defense with the Commissioner on September 26, 2014 (“Notice of Defense”).

F. It is the intention and desire of the parties to resolve this matter without the necessity of a hearing and/or other litigation.

///
///
///

1 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
2 forth herein, the parties agree as follows:

3 **TERMS AND CONDITIONS**

4 1. This Stipulation is entered into for the purpose of judicial economy and expediency,
5 and to avoid the time and expense of a hearing and possible further court proceedings.

6 2. The Commissioner’s Notice of Intention is withdrawn. Affordable’s Notice of
7 Defense, filed in connection with the Notice of Intention, is also withdrawn.

8 3. The parties hereby agree to the issuance of a final Desist and Refrain Order against
9 Affordable for violations of Financial Code sections 17400, 17404, and 17414 and title 10, section
10 1732, of the California Code of Regulations (“Order”). Attached hereto as **Exhibit A** and
11 incorporated herein by reference is a true and correct copy of the final Order dated October 16, 2014.

12 4. Affordable hereby acknowledges that the Commissioner granted a hearing in relation
13 to the Order under Financial Code section 17604. Without admitting or denying such charges,
14 Affordable voluntarily waives its right to a hearing in relation to the Order, such that it is now final.

15 5. Affordable further waives its right to any reconsideration, appeal, or other rights
16 which may be afforded under the Escrow Law; the Administrative Procedure Act (Govt. Code, §
17 11370 et seq.); the Code of Civil Procedure; or any other provision of law in connection with this
18 matter.

19 6. Affordable enters into this Stipulation voluntarily and without coercion and
20 acknowledges that no promises, threats, or assurances have been made by the Commissioner or any
21 officer, or agent thereof, about this Stipulation.

22 7. The Commissioner reserves the right to bring any future actions against Affordable or
23 any of its officers, directors, shareholders, or employees for any and all unknown or future violations
24 of the Escrow Law. This Stipulation shall not serve to exculpate Affordable or any of its officers,
25 directors, shareholders, or employees from any liability for any and all unknown or future violations
26 of the Escrow Law.

27 ///

28 ///

1 8. Affordable acknowledges that nothing in this Stipulation shall preclude the
2 Commissioner, or her agents or employees, to the extent authorized by law, from assisting or
3 cooperating in any investigation and/or action brought by any other federal, state, or county agency.
4 Affordable further agrees that this Stipulation shall not bind or otherwise prevent any other federal,
5 state, or county agency from the performance of its duties.

6 9. Each of the parties represents, warrants, and agrees that they have received
7 independent advice from their attorneys and/or representatives with respect to the advisability of
8 executing this Stipulation.

9 10. Each of the parties represents, warrants, and agrees that in executing this Stipulation
10 they have relied solely on the statements set forth in the agreement and the advice of their own
11 attorneys and/or representatives. Each of the parties represents, warrants, and agrees that in executing
12 this Stipulation they have placed no reliance on any statement, representation, or promise of any other
13 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
14 any other person or entity to make any statement, representation, or disclosure of anything
15 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any
16 way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol
17 evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

18 11. This Stipulation is the final written expression and the complete and exclusive
19 statement of all agreements, conditions, promises, representations, and covenants, between the parties
20 with respect to the matter hereof, and supersedes all prior or contemporaneous agreements,
21 discussions, negotiations, representations, and understanding between and among the parties, their
22 respective representatives, and any other person or entity, with respect to the subject matter covered
23 in this agreement.

24 12. In that the parties have had the opportunity to draft, review, and edit the language of
25 this Stipulation, no presumption for or against any party arising out of drafting all or any part of this
26 Stipulation will be applied in any action relating to, connected to, or involving this Stipulation.
27 Accordingly, the parties waive the benefit of Civil Code section 1654 and any successor or amended
28

1 statute, providing that in cases of uncertainty, language of contract should be interpreted most
2 strongly against the party who caused the uncertainty to exist.

3 13. This Stipulation shall not become effective until signed and delivered by all parties.

4 14. This Stipulation may be executed in one or more separate counterparts, each of which
5 when so executed, shall be deemed an original but all of which, together, shall be deemed to
6 constitute a single document. The Stipulation may be executed by facsimile or scanned signature, and
7 any such facsimile or scanned signature by any party hereto shall be deemed an original signature and
8 shall be binding on such party to the same extent as if such facsimile or scanned signature were an
9 original signature.

10 15. Each signatory hereto covenants that he or she possesses all necessary capacity and
11 authority to sign and enter into this Stipulation.

12

13 Dated: 10/16/14

JAN LYNN OWEN
Commissioner of Business Oversight

14

15

By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

16

17

18

19 Dated: 10/16/14

AFFORDABLE ESCROW, INC.

20

21

By: _____
YALILE HERRERA
President

22

23

24 ///

25 ///

26 ///

27

28

1 APPROVED AS TO FORM:

2 LANPHERE LAW GROUP, P.C.

3

4

5 By: _____
6 MICHAEL A. LANPHERE, ESQ. Attorney for
7 AFFORDABLE ESCROW, INC.

8

9 JAN LYNN OWEN
10 Commissioner of Business Oversight

11

12

13 By: _____
14 BLAINE A. NOBLETT
15 Senior Corporations Counsel

16

17

18

19

20

21

22

23

24

25

26

27

28