

1 PRESTON DuFAUCHARD
California Corporations Commissioner
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CALIFORNIA DEPARTMENT
8 OF CORPORATIONS

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In the Matter of the ORDER of THE) OAH Case No.: L-2008040454
CALIFORNIA CORPORATIONS)
COMMISSIONER,) File No.: 963-2367
) **SETTLEMENT AGREEMENT**
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Complainant,)
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v.)
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PREMIERE CAPITAL ESCROW, INC.,)
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Respondent.)
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This Settlement Agreement (“Agreement”) is entered into between Premiere Capital Escrow, Inc. (“Premiere Capital Escrow”) and the California Corporations Commissioner (“Commissioner”) with respect to the following facts:

RECITALS

A. Premiere Capital Escrow is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in the State of California.

1 B. Premiere Capital Escrow is an escrow agent licensed by the Commissioner pursuant to the
2 Escrow Law of the State of California (California Financial Code, Section 17000, *et seq.*) Premiere
3 Capital Escrow currently holds escrow agent's license number 963-2367 with its principal place of
4 business located at 111 East Broadway, Suite 208, Glendale, CA 91206.

5 C. Luis Antonio Venegas ("Venegas") is the president and chief executive officer of
6 Premiere Capital Escrow, and is authorized to enter into this agreement on the part of Premiere
7 Capital Escrow.

8 D. On or about March 28, 2008, the Commissioner issued an Order Imposing Penalties
9 pursuant to the California Financial Code section 17408 ("Order"). This Order imposed penalties in
10 the amount "of \$16,500, plus an additional \$100 a day for each day after March 28, 2008 that the
11 annual audit report is not filed." The penalties were assessed due to Premiere Capital Escrow's
12 failure to timely file its annual audit report for the fiscal year ended June 30, 2007 as required by
13 California Financial Code section 17406. This Order was set aside by a subsequent Order dated
14 October 14, 2008.

15 E. On or about March 28, 2008, the Commissioner issued a Notice of Intention to Issue
16 Order Suspending Escrow Agent's License pursuant to the California Financial Code section 17608,
17 Accusation and accompanying documents. Finding that Premiere Capital Escrow had violated
18 Financial Code section 17406 by failing to timely file its annual audit report, the Commissioner
19 notified Premiere Capital Escrow of his intention to suspend Premiere Capital Escrow's agent
20 license "until such time as Respondent files its audit report for the fiscal year ending June 30, 2007
21 or for a period of one month, whichever is greater."

22 E. The Order Imposing Penalties, Notice of Intention to Issue Order Suspending Escrow
23 Agent's License, Accusation and accompanying documents were served on Premiere Capital Escrow
24 at its address of record on file with the Department no later than April 1, 2008. Premiere Capital
25 Escrow filed a request for a hearing on the Commissioner's Order with the Department on or about
26 April 4, 2008. Subsequently Premiere Capital Escrow submitted its 2007 annual audit report to the
27 Commissioner on May 5, 2008. However, this report did not comport with the requirements
28 outlined in Financial Code 17406.

1 F. The Office of Administrative Hearings set this matter for a hearing on July 10 and 11,
2 2008 at 9:00 AM. The hearing was continued to August 12 and 13, 2008, and subsequently
3 continued yet again to October 16 and 17, 2008. It is the intention and the desire of the parties to
4 resolve this matter without proceeding with the hearing and/or other litigation.

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

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8 **TERMS AND CONDITIONS**

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

11 2. Premiere Capital Escrow hereby admits the allegations contained in the Order. The
12 admissions of Premiere Capital Escrow are solely for the limited purposes of these proceedings and
13 any future proceeding(s) that may be initiated by or brought before the Commissioner against
14 Premiere Capital Escrow. It is the intent and understanding of the parties that this Agreement, and
15 the admissions of Premiere Capital Escrow contained herein, shall not be binding or admissible
16 against Premiere Capital Escrow in any action(s) brought against Premiere Capital Escrow by third
17 parties.

18 3. Premiere Capital Escrow agrees that the accompanying Order Suspending License is
19 hereby deemed a final order.

20 4. Premiere Capital Escrow hereby agrees to the issuance of an order suspending Premiere
21 Capital Escrow's license from October 27, 2008 until the 2007 and 2008 annual audit reports are
22 submitted in full compliance with Financial Code 17406, including an accompanying opinion
23 rendered by an independent public accountant, or for a period of no less than two weeks, whichever
24 period is greater. The suspension shall be effective provided that Premiere Capital has already
25 signed and returned this settlement agreement. In connection with the suspension, Premiere Capital
26 shall file with the Commissioner at close of business on October 24, 2008, a list of all open escrows
27 with escrow numbers and escrow party names along with a copy of the signed escrow instructions
28 and signed deposit receipt(s) for the last opened escrow, signed by the president of Premiere Capital

1 Escrow under penalty of perjury. For purposes of this Agreement, open escrow shall mean an
2 escrow wherein the parties to such escrow have already entered into a binding agreement and monies
3 and/or escrow instructions have been submitted to Premiere Capital Escrow regarding the
4 transaction. Additionally, Premiere Capital Escrow will be required to immediately engage its
5 certified public accounting (“CPA”) firm to review the records of Premiere Capital Escrow after the
6 suspension has been completed and report its findings regarding compliance with the suspension
7 (“CPA Report”) to the Department by November 21, 2008. Premiere Capital Escrow’s CPA shall
8 file its CPA Report with the Department directly. The Commissioner reserves the right to audit
9 Premiere Capital Escrow for compliance with the suspension notwithstanding the findings of the
10 CPA review.

11 A copy of the suspension order is attached and incorporated as Exhibit A.

12 5. Failure to comply with the Order Suspending License will result in a summary
13 revocation of the escrow agent’s license held by Premiere Capital Escrow. This settlement
14 constitutes a waiver by Premiere Capital Escrow to contest, litigate or otherwise dispute any
15 summary revocation resulting from failure to comply with the Order Suspending License.

16 6. The parties hereby acknowledge and agree that this Agreement is intended to constitute a
17 final and complete resolution of the matters set forth herein, including the allegations set forth in
18 Order, and constitutes the entire Agreement between the parties with respect thereto. This
19 Agreement supersedes any and all prior or contemporaneous agreements between the parties hereto.

20 7. Notwithstanding any other provision contained herein, nothing in this Agreement
21 shall operate to limit the Commissioner’s ability to investigate and prosecute violations of the
22 Escrow Law not addressed herein, or to assist any other agency, (county, state, or federal) with any
23 prosecution, administrative, civil or criminal, brought by such agency against Premiere Capital
24 Escrow.

25 8. Premiere Capital Escrow acknowledges its right to an administrative hearing under
26 California Financial Code sections 17408 and 17608 in connection with the penalty, and hereby
27 waives its right to a hearing, and to any reconsideration, appeal, or other rights which may be
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1 afforded pursuant to the Escrow Law, the California Administrative Procedure Act, the California
2 code of Civil Procedure, or any other provision of law in connection with this matter.

3 9. In that the parties have had the opportunity to draft, review and edit the language of
4 this Agreement, no presumption for or against any party arising out of the drafting all or any part of
5 this Agreement will be applied in any action relating to or arising out of this Agreement.
6 Accordingly, the parties hereby waive the benefit of the California Civil Code section 1654 and any
7 successor statute.

8 10. The waiver of any provision of this agreement shall not operate to waive any other
9 provisions set forth herein, and any waiver, amendment and/or change to the terms of this
10 Agreement must be in writing signed by the parties hereto.

11 11. Each signatory hereto represents and warrants that he/she possesses the necessary
12 capacity and authority to execute this Agreement and bind the parties hereto.

13 12. This Agreement may be executed in one or more counterparts, each of which shall be
14 an original but all of which, together, shall be deemed to constitute a single document. A faxed
15 signature shall be deemed the same as an original signature.

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18 Dated: October 27, 2008

PRESTON DuFAUCHARD
California Corporations Commissioner

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By: _____
Alan S. Weinger
Acting Deputy Commissioner
California Department of Corporations

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23 Dated: October 16, 2008

PREMIERE CAPITAL ESCROW, INC.

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By: _____
Luis Antonio Venegas
President and Chief Executive Officer

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