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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. SOUTHWEST ESCROW CORPORATION Respondent.	)	File No.: 963-0287 **ORDER IMPOSING PENALTIES PURSUANT TO FINANCIAL CODE SECTION 17408**

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

I.

SOUTHWEST ESCROW CORPORATION (“Respondent” or “SW”) 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 sections 17000 *et seq*.) ("Escrow Law") with a principal place of business located at 502 South La Brea Avenue, in Inglewood, California.

State of California - Department of Corporations

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 ("Annual Report") within one hundred and five (105) days after the close of their fiscal year.

Fiscal Year End December 31, 2009

SW's 2009 fiscal year end date was December 31, 2009. Accordingly, Respondent was required to file its 2009 fiscal year end Annual Report on April 15, 2010. However, despite this deadline, SW filed their Annual Report forty-seven (47) days late on June 2, 2010. On or about June 9, 2010, the Complainant issued a notice to Respondent advising that penalties would be waived for this particular late filing but that future filings would be subject to potential penalties pursuant to Financial Code section 17408 ("First Warning").

Fiscal Year End December 31, 2010

SW's 2010 fiscal year end date was December 31, 2010. Accordingly, Respondent was required to file its Annual Report on April 15, 2011. Complainant issued a letter to SW on or about November 15, 2010. In this letter, the Complainant reminded SW that April 15, 2011 was the deadline to file their 2010 fiscal year end Annual Report.

The Respondent requested an extension of filing on April 14, 2011. The Commissioner issued a ten (10) day demand letter that was sent on April 15, 2011. According to the Commissioner's demand letter, penalties would begin to accrue against Respondent in accordance with section 17408 of the Financial Code when the Annual Report is late. However, the demand letter also granted a filing extension, a reprieve from penalties for this particular late filing, and warned the licensee of the penalties for future late filings ("Second Warning"). Respondent filed their Annual Report for 2010 fiscal year end thirteen (13) days late, on or about April 28, 2011.

Fiscal Year End December 31, 2011

SW's 2011 fiscal year end date was December 31, 2011. Accordingly, Respondent was required to file its Annual Report on April 15, 2012. Complainant issued a letter to SW on or about November 2, 2011. In this letter, the Complainant reminded SW that April 15, 2012 was the deadline to file their 2011 fiscal year end Annual Report. Despite this reminder, April 15, 2012 came and went without Respondent filing their 2011 fiscal year end Annual Report.

On or about April 23, 2012, the Commissioner issued a ten (10) day demand letter to the Respondent. In response, on or about May 3, 2012, SW issued a request for extension to file the Annual Report despite the reminder letter and previous extensions granted in other instances. On or about May 2012, the Commissioner informed Respondent that, because of the past two (2) late filings, the First Warning, and the Second Warning, no further extensions would be granted.

Respondent eventually submitted the 2011 fiscal year end Annual Report on or about May 15, 2012, twenty-nine (29) days late.

III.

Financial Code section 17406, subdivision (a), provides as follows:

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

Financial Code section 17408, subdivisions (b)-(e), provides as follows:

> (b) The commissioner may impose, by order, a penalty on any person who fails, within the time specified in any written demand of the commissioner, (1) to make and file with the commissioner any report required by law or requested by the commissioner, or (2) to furnish any material information required by the commissioner to be included in the report. The amount of the penalty may not exceed one hundred dollars ($100) for each day for the first five days the report or information is overdue, and thereafter may not exceed five hundred dollars ($500) for each day the report or information is overdue.
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> (c) If, after an order has been made under subdivision (b), a request for

hearing is filed in writing within 30 days of the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted under that chapter.

(d) If the person fails to file a written request for a hearing within 30 days of the date of service of the order, the order imposing the penalty shall be deemed a final order of the commissioner, and the penalty shall be paid within five business days.

(e) If a hearing is requested, the penalty shall be paid within five business days after the effective date of any decision in the case ordering payment to be made.

V.

ORDER IMPOSING PENALTIES PURSUANT TO FINANCIAL CODE SECTION 17408

The Commissioner finds that SOUTHWEST ESCROW CORPORATION failed to timely file its Annual Report for its fiscal year ending on December 31, 2011, as required under Financial Code section 17406. The failure to timely file the Annual Report is grounds for the imposition of penalties under Financial Code section 17408.

Since the April 23, 2012 demand letter, SOUTHWEST ESCROW CORPORATION's Annual Report was twenty-one (21) days late. Accordingly, pursuant to Financial Code section 17408, Respondent owes the Commissioner penalties in the amount of three thousand seven hundred and fifty dollars ($3,750.00), calculated at fifty dollars ($50.00) per day for the first five days from the demand letter and two hundred and fifty dollars ($250.00) per day thereafter[1].

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[1] CALCULATION PURSUANT TO FINANCIAL CODE SECTION 17408

April 24, 2012 to April 29, 2012 = 50$ per day for 5 days =	$250.00
April 30, 2012 to May 14, 2012 = $250.00 per day for 14 days =	$3,500.00
TOTAL PENALTIES DUE:	$3,750.00

State of California - Department of Corporations

NOW THEREFORE the Commissioner, having found that SOUTHWEST ESCROW CORPORATION failed to timely file its annual audit report containing audited financial statements for its fiscal year ended December 31, 2011, as required by Financial Code section 17406, it is hereby ordered, pursuant to Financial Code section 17408, that SOUTHWEST ESCROW CORPORATION pay the Commissioner the sum three thousand seven hundred fifty dollars ($3,750.00), as of the date of this Accusation and Order. SOUTHWEST ESCROW is hereby ordered to pay these penalties to the Commissioner no later than thirty (30) days from the date of service of this order.

DATED: July 19, 2012
Sacramento, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner
Enforcement Division

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