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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA
12

13 In the Matter of:) ESCROW LICENSE NO. 963-2552
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
15)
16 Complainant,) ACCUSATION IN SUPPORT OF ORDER
v.) REVOKING NORTHERN CALIFORNIA
17) ESCROW SERVICES, INC.'S ESCROW
NORTHERN CALIFORNIA ESCROW) AGENT LICENSE
18 SERVICES, INC.)
19)
20 Respondent.)
21)
22)

23 The Commissioner of Business Oversight (“Commissioner”) is informed and believes and
24 based upon such information and belief, alleges and charges as follows:

25 **I**

26 **Introduction**

27 1. Northern California Escrow Services, Inc. (“NCES”) is an escrow agent licensed by
28 the Commissioner pursuant to the Escrow Law of the State of California (Financial Code Section

1 17000 et seq.), with its principal place of business at 5540 Almaden Expressway, #A, San Jose, CA
2 95118.

3 **II**

4 **Failure to File Annual Report**

5 2. Pursuant to Financial Code section 17406, all licensees under the Escrow Law are
6 required to file an annual audit report containing audited financial statements (“Annual Report”)
7 within one hundred and five (105) days after the close of their fiscal year. NCES’s fiscal year end for
8 2013 was June 30, 2013. Accordingly, NCES was required to file its 2013 Annual Report on or
9 before October 15, 2013.

10 3. On October 21, 2013, the Commissioner demanded in a letter served by certified mail
11 on NCES that their 2013 Annual Report was due within 10 days of October 21, 2013, or the
12 Commissioner would assess penalties for each day the report is late, in addition to possibly
13 conducting a special examination and/or taking administrative action. To date, NCES has not filed its
14 2013 Annual Report and the 2013 Annual Report is now 498 days late as of the date of this
15 Accusation.

16 **III**

17 **Failure to Pay Penalties**

18 4. Pursuant to Financial Code section 17408, the Commissioner may issue an order
19 imposing penalties based on the failure to file reports demanded by the Commissioner. Pursuant to
20 Financial Code section 17408, subdivision (e), if a hearing is requested upon the order imposing
21 penalties and a final decision is made, the penalties are due within 5 business days after the effective
22 date of any decision ordering the penalty payments.

23 5. On or about August 25, 2014, an administrative hearing was held at the Office of
24 Administrative Hearings on the Commissioner’s Accusation and Order Imposing Penalties issued
25 against NCES on February 4, 2014.

26 6. On or about August 28, 2014, a proposed decision in the matter was issued by the
27 Administrative Law Judge (“Proposed Decision”).
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1 7. On or about December 11, 2014, the Commissioner adopted the Proposed Decision as
2 her Decision (“Final Decision”) on the matter. The Final Decision became effective on January 10,
3 2015.

4 8. Pursuant to the Final Decision, the following Orders were issued:

5 1) NCES’s escrow agent license is suspended until: (a) NCES’s 2013 Annual
6 Report was filed; (b) NCES’s outstanding examination bills dated January and August 2013
7 are paid in full to the Commissioner; and (c) NCES submits sufficient proof that it has met the
8 liquid asset requirement pursuant to Financial Code section 17210.

9 2) The Order imposing penalties issued by the Commissioner pursuant to
10 Financial Code section 17408 (“Penalty Order”) was affirmed and NCES is ordered to pay the
11 Commissioner the following penalties: (a) \$56,000.00 in penalties for the late filing of their
12 2012 Annual Report; and (b) \$50.00 in penalties for the first five days that their 2013 Annual
13 Report was not submitted by the demand date and \$250.00 per day thereafter until the 2013
14 Annual Report is filed.

15 9. As of the date of this Accusation, NCES has failed to pay \$56,000.00 in penalties to
16 the Commissioner for the late filing of their 2012 Annual Report, in violation of Financial Code
17 section 17408, subdivision (e).

18 10. As of the date of this Accusation, NCES has failed to file its 2013 Annual Report and
19 it is currently 498 days late. Pursuant to the Penalty Order, NCES has accrued penalties of
20 \$123,500.00 that NCES has failed to pay to the Commissioner, in violation of Financial Code section
21 17408, subdivision (e).

22 **IV**

23 **Liquid Asset Deficiency**

24 11. Pursuant to Financial Code section 17210, all licensees under the Escrow Law are
25 required to maintain at all times, a tangible net worth of fifty-thousand dollars (\$50,000.00),
26 including liquid assets of at least twenty-five thousand dollars (\$25,000.00) in excess of current
27 liabilities.

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1 12. On or about October 14, 2013, the Commissioner received a compilation report dated
2 June 30, 2013. The Commissioner's examiner reviewed the report and found that NCES was
3 deficient in meeting the liquid asset requirements by \$23,222.00 and requested that NCES correct the
4 deficiency. As of the date of this Accusation, NCES has failed to submit any proof to the
5 Commissioner that is has corrected the liquid asset deficiency under Financial Code section 17210.

6 V

7 **Applicable Law**

8 13. Financial Code section 17210 provides in pertinent part:

9 A licensed escrow agent shall maintain at all times a tangible net
10 worth of fifty thousand dollars (\$50,000), including liquid assets of at
11 least twenty-five thousand dollars (\$25,000) in excess of current
12 liabilities.

13 14. Financial Code section 17406 provides, in pertinent part:

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

21 15. Financial Code section 17408 provides, in pertinent part:

22 (b) The commissioner may impose, by order, a penalty on any person
23 who fails, within the time specified in any written demand of the
24 commissioner, (1) to make and file with the commissioner any report
25 required by law or requested by the commissioner, or (2) to furnish
26 any material information required by the commissioner to be included
27 in the report. The amount of the penalty may not exceed one hundred
28 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.

...

(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.

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16. Financial Code section 17602.5 provides in pertinent part:

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.

17. 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:

(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.

VI

Prayer

18. The Commissioner finds that by reason of the foregoing, Northern California Escrow Services, Inc. has violated Financial Code sections 17210, 17406, and 17408.

19. The Commissioner further finds that based upon Northern California Escrow Services, Inc.'s continued failure to comply with the Escrow Law it is in the best interests of the public to revoke Northern California Escrow Services, Inc.'s escrow agent's license pursuant to Financial Code sections 17602.5 and 17608.

WHEREFORE, IT IS PRAYED THAT Northern California Escrow Services, Inc.'s escrow agent license be revoked.

Dated: March 13, 2015
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
JOHNNY VUONG
Senior Counsel
Enforcement Division