PRESTON DuFAUCHARD
California Corporations Commissioner
ALAN S. WEINGER
Deputy Commissioner
KIRK E. WALLACE (SBN 129953)
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Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. COMMERCIAL ESCROW SERVICES, INC. Respondent.	File No.: 963-5075 **DEMAND FOR AND ORDER TAKING POSSESSION OF THE TRUST FUNDS AND ESCROW RECORDS OF COMMERCIAL ESCROW SERVICES, INC., PURSUANT TO FINANCIAL CODE SECTION 17621**

TO: COMMERCIAL ESCROW SERVICES, INC.
3478 Buskirk Avenue, Suite 242
Pleasant Hill, California 94523

BANK OF THE WEST
300 South Grand, 5th Floor
Los Angeles, California 90071

UNION BANK OF CALIFORNIA
1980 Saturn Street
Monterey Park, California 90755

State of California – Department of Corporations

WHEREAS, Preston DuFauchard, the California Corporations Commissioner ("Commissioner"), has found that Commercial Escrow Services, Inc. (CES), an escrow agent subject to the Escrow Law (Fin. Code, § 17000 et seq.), is unable to remedy certain conditions set forth in the Notice and Summary of Findings Pursuant to Financial Code section 17621 issued by the Commissioner on October 12, 2011; and

WHEREAS, Respondent is conducting its escrow business in an unsafe, injurious and unauthorized manner, so as to render further operations hazardous to the public or to customers in that Respondent:

(a) has been unable to cure a trust account shortage of $195,750.00 which has existed since May of 2010, despite demands from the Commissioner to remedy it no later than August 4, 2011.

(b) failed to keep escrow funds that are covered by Escrow Agent's Fidelity Corporation (EAFC) in separate trust accounts and commingled millions of dollars of funds from non-EAFC covered escrow transactions in the same account and failed to keep separate ledgers for such accounts in violation of Financial Code section 17409 (b) and California Code of Regulations, title 10, section 1732.2.

(c) has a liquid asset deficiency of $17,425.85 in violation of Financial Code section 17210, that requires escrow agents to maintain liquid assets of at least $25,000 in excess of all current liabilities. CES failed to provide evidence that they have corrected this deficiency despite a demand by the Department of Corporations (DOC) made on August 23, 2011 to do so within thirty days from that date.

(d) failed to keep and use in its business, books, accounts, and records in a manner which properly enabled the commissioner to determine whether the escrow functions performed by such persons comply with the provision of the Escrow Law and related regulations as required by Financial Code Section 17404. This included failure to maintain the required records and separate ledgers for each escrow transaction and providing customers escrow numbers to issue or assign themselves, resulting in over 400 ledgers for such escrow numbers being missing or unassigned.

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(e) failed to comply with Financial Code section 17414 (a) which prohibits an escrow agent from either knowingly or recklessly disbursing escrow funds that are not in accordance with escrow instructions or which aid or abets in any material way activity which constitutes theft or fraud in connection with any escrow transaction. This included distributing escrow funds in at least 6 instances where the escrow funds were released by CES either without the permission of the party depositing the escrow funds, contrary to escrow instructions or based on incomplete or improper escrow instructions maintained in the file.

NOW, GOOD CAUSE APPEARING, pursuant to Financial Code section 17621, the Commissioner, effective this date, hereby demands and takes possession of the trust accounts of Commercial Escrow Services, Inc. and any indemnity funds paid or to be paid by Escrow Agent's Fidelity Corporation, and all bank and escrow records pertinent thereto, and will retain possession thereof until the Commissioner appoints a conservator, or until its affairs are finally liquidated as provided for in Division 6, Chapter 6 of the Financial Code, or it resumes business with the consent and upon such conditions as the Commissioner may prescribe.

This Demand For and Order Taking Possession is effective as of the date hereof.

Dated: October 12, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner

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