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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. DII ESCROW CORP. and HENRY MELENDEZ, Respondents.	Case No.: 963-1967 ACCUSATION

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

I

Respondent DII Escrow Corp. ("DII") 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 Section 17000 et seq.). DII has its principal place of business located at 1050 Lake Drive, Ste. 120, West Covina, California 91790.

Respondent Henry Melendez ("Melendez") is, and was at all times relevant herein, the president and owner of DII.

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II

On or about September 29, 2004, the Commissioner suspended the escrow agent's license of DII for a period of 15 consecutive calendar days effective October 21, 2004 (the "suspension order"). The suspension order prohibited DII from accepting any new escrow business during that period; October 21, 2004 through November 4, 2004. The suspension order was served on DII through its attorney of record on or about September 29, 2004. On or about October 21, 2004, DII submitted its list of open escrows as of close of business October 20, 2004 pursuant to the requirements of the suspension order.

III

On or about June 3, 2005, the Commissioner commenced a regulatory examination of the books and records of DII. During the regulatory examination, it was discovered that DII had violated the suspension order by continuing to accept new escrow business during the suspension period. The Commissioner has documented at least four new escrows that were accepted by DII during the suspension period, to wit: escrow numbers 2905-AW, 2927-CVD, 2930-AW, and 2934-CVD. This activity is not only in direct violation of the suspension order, but also California Financial Code sections 17200 and 17600.

It was further discovered during the regulatory examination that DII falsified escrow records in violation of California Financial Code sections 17404, 17414(a)(2) and 17702 in order to cover up its violation of the suspension order and/or facilitate its intention to violate the suspension order as more fully described below.

1. Escrow number 2905-AW:

This escrow was opened on or after October 22, 2004 but prior to November 5, 2004. The initial escrow instructions however were dated October 20, 2004. Further, the list of open escrows provided to the Commissioner by DII on October 21, 2004 listed escrow number 2905-AW, but failed to include the names of the buyer and seller.

2. Escrow number 2927-CVD:

This escrow was opened on or after October 28, 2004 but prior to November 5, 2004. The initial escrow instructions however were dated October 20, 2004. Further, the list of open escrows

provided to the Commissioner by DII on October 21, 2004 contained the name of a person as the borrower who had no involvement with the escrow.

3. Escrow number 2930-AW:

This escrow was opened on or after October 28, 2004 but prior to November 5, 2004. The initial escrow instructions however were dated October 20, 2004. Moreover, the list of open escrows provided to the Commissioner by DII on October 21, 2004 failed to include the name of the borrower.

4. Escrow number 2934-CVD:

This escrow was opened on or after October 29, 2004 but prior to November 5, 2004. The initial escrow instructions however were dated November 5, 2004.

Moreover, DII, in addition to misrepresenting opening escrow dates on the initial escrow instructions, submitted a list of open escrows that misrepresented the number of open escrows by including escrow numbers for at least 31 escrows that did not exist as of close of business October 20, 2004.

IV

California Financial Code section 17200 provides:

> It shall be unlawful for any person to engage in business as an escrow agent within this State except by means of a corporation duly organized for that purpose licensed by the commissioner as an escrow agent.

California Financial Code section 17404 provides in pertinent part:

> Every person subject to this division shall keep and use in its business, books, accounts, and records which will properly enable the commissioner to determine whether the escrow functions performed by such person comply with the provisions of this division and with all rules made by the commissioner under this division.

California Financial Code section 17414, subsection (a)(1) provides:

> (a) It is a violation for any person subject to this division or any director, stockholder, trustee, officer, agent, or employee of any such person to do any of the following:
>
> (2) Knowingly or recklessly make or cause to be made any misstatement or omission to state a material fact, orally or in writing, in escrow books,

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accounts, files, reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

California Financial Code section 17600 provides in relevant part:

> (a) An escrow agent's license remains in effect until surrendered, revoked, or suspended.

California Financial Code section 17702 provides:

> It is unlawful for any person to willfully make any untrue statement of a material fact in any application, notice or report filed with the commissioner under this division or the regulations issued thereunder, or to willfully omit any material fact which is required to be stated in any application, notice, or report.

V

California 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.
>
> (c) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the commissioner in refusing originally to issue such license.

California Financial Code section 17209.3 provides in pertinent part:

> The commissioner may refuse to issue any license being applied for, and shall refuse to issue any license being applied for if upon his examination and investigation, and after appropriate hearing, he finds any of the following:
>
> . . .
>
> (b) That any incorporator, officer, or director of the applicant has, within the last ten years . . .(2) committed any act involving dishonesty, fraud or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.
>
> . . .

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> (f) The applicant or any officer, director, or incorporator of the applicant has violated any provision of this division or the rules thereunder. . ..

As previously described in Section III above, DII has violated California Financial Code sections 17404, 17414(a)(2) and 17702 by falsifying escrow records and the open list report in order to cover up its violation of the suspension order. DII has also violated California Financial Code sections 17200 and 17600 by continuing to engage in the business of an escrow agent when its escrow agent's license was suspended.

Further, the Commissioner considers DII's and Melendez' violations of the suspension order and their falsification of documents in furtherance thereof acts of deceit and dishonesty. The Commissioner would not have originally issued a license to DII if he had known at the time of the original licensure that DII would commit such acts of deceit and dishonesty.

VI

California Financial Code section 17423 provides in pertinent part:

> (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . bar from any position of employment, management, or control any escrow agent, or any other person, if the commissioner finds either of the following:
>
> (1) That the . . . bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the escrow agent or to the public.

VII

The Complainant finds that, by reason of the foregoing, Respondents have violated (i) an order of the Commissioner and (ii) Sections 17200, 17404, 17414(a)(2), 17600 and 17702 of the California Financial Code, and (iii) have committed acts of deceit and dishonesty by not complying with the suspension order and falsification of records in furtherance thereof, which are more than adequate grounds to revoke the escrow agent's license of DII and bar Melendez from any position of employment, management or control of any escrow agent.

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WHEREFORE, IT IS PRAYED that the escrow agent's license of Respondent DII be revoked and that Respondent Melendez be barred from any position of employment, management or control of any escrow agent.

Dated: October 31, 2005
Los Angeles, CA

WAYNE STRUMPFER
Acting California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel

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