

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
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6 Attorneys for Complainant
7

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of THE CALIFORNIA) File No.: 963-2210
CORPORATIONS COMMISSIONER,)
12)
Complainant,) ORDER TO DISCONTINUE ESCROW
13) ACTIVITIES PURSUANT TO CALIFORNIA
vs.) FINANCIAL CODE SECTION 17415
14)
PRIME WEST ECROW, INC.,)
15)
Respondent.)
16)
17)
18)

19 TO: PRIME WEST ESCROW, INC.,
20 12711 Ventura Blvd., Suite 290
Studio City, California

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22 CITY NATIONAL BANK
355 S. Grand Ave., Ste 150
23 Los Angeles, California 90071

24 COMERICA BANK
2321 Rosecrans Ave., Ste. 5000
25 El Segundo, California 90245
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1 THE CALIFORNIA CORPORATIONS COMMISSIONER FINDS THAT:

2 1. Commencing on or about March 26, 2007, and continuing through at least March 23,
3 2009, Prime West Escrow, Inc. (“Prime West”) disbursed trust funds totaling at least \$1,083,403.20
4 to its president, shareholder and escrow manager/escrow officer of its main office, Alejandro
5 Martinez aka Alex Martinez (“Martinez”), or on behalf of Martinez by way of his company Martinez
6 Escrow Consulting, Inc. and otherwise or to his domestic partner, Chris Ewen, or on Ewen’s behalf,
7 in violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations,
8 title 10, sections 1738 and 1738.2.

9 2. The unauthorized disbursements described in paragraph 1 above caused a shortage of
10 at least \$1,083,403.20 to exist in the trust account(s) of Prime West in violation of California Code
11 of Regulations, title 10, section 1738.1.

12 3. On or about July 13, 2009, Prime West submitted a proof of loss claim to Escrow
13 Agent’s Fidelity Corporation (“EAFC”) in the amount of \$1,548,582.76, which claim was
14 subsequently reduced by Prime West to \$1,175,044.33.

15 4. On or about November 11, 2009, EAFC and Prime West entered into a settlement
16 agreement whereby Prime West agreed to accept EAFC’s offer to compromise in the amount of
17 \$750,000.00. On or about December 22, 2009, pursuant to settlement agreement entered into by and
18 between EAFC and Prime West, EAFC replaced \$750,000.00 of the shortage. However, a trust
19 account shortage remains, which the Commissioner believes is in the amount of at least \$333,403.20.
20 Prime West, while giving no explanation for its figures, has stated that it believes the trust account
21 shortage is around \$80,000.00, and has further stated that it is unable to cure the trust account
22 shortage even if it is the lesser amount.

23 5. Moreover, the settlement agreement entered into between EAFC and Prime West
24 conditioned the indemnity payment to Prime West on Prime West’s agreement that Prime West’s
25 certified public accountant “shall effect the payment of its trust obligations as stated herein either
26 directly by or under his supervision and who shall be a co-signer for the trust account in which the
27 EAFC indemnity shall be deposited, and who shall co-sign the trust account checks issued to
28 disburse the Settlement Amount indemnity . . . Prime West’s certified public accountant is not

1 authorized under the California Escrow Law to sign on the trust account(s) as he has not been
2 properly reported to the Department of Corporations, nor has a background check been performed,
3 including fingerprinting, as required by the Escrow Law before a person can have access to trust
4 funds.

5 6. Additionally, while the unauthorized disbursements of trust funds only occurred in
6 the trust account of the main office, Prime West has since transferred escrow files from the main
7 office to the branch office and used trust funds on deposit in the branch trust account for branch
8 office escrow files to close main office escrow files in violation of Financial Code section 17409.1
9 and thereby creating a shortage in the branch trust account.

10 Based upon the foregoing, Prime West is conducting escrow business in such an unsafe and
11 injurious manner as to render further operations hazardous to the public or to customers.

12 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
13 THEREFORE, it is hereby ORDERED, under the provisions of Section 17415 of the California
14 Financial Code, that Prime West Escrow, Inc. and any person having in his or her possession any
15 escrow funds or trust funds discontinue immediately the receipt or disbursement of any escrow or
16 joint control money, documents or other property in its possession, custody or control.

17 This order is to remain in full force and effect until further order of the Commissioner.

18 California Financial Code section 17415 provides as follows:

19 (a) If the commissioner, as a result of any examination or from any
20 report made to him or her, shall find that any person subject to this
21 division is in an insolvent condition, is conducting escrow business in
22 such an unsafe or injurious manner as to render further operations
23 hazardous to the public or to customers, has failed to comply with
24 the provisions of Section 17212.1 or 17414.1, has permitted its tangible
25 net worth to be lower than the minimum required by law, has failed to
26 maintain its liquid assets in excess of current liabilities as set forth in
27 Section 17210, or has failed to comply with the bonding requirements
28 of Chapter 2 (commencing with Section 17200) of this division, the
commissioner may, by an order addressed to and served by registered
or certified mail or personal service on such person and on any other
person having in his or her possession or control any escrowed funds,
trust funds or other property deposited in escrow with said person,
direct discontinuance of the disbursement of trust funds by the parties
or any of them, the receipt of trust funds, the delivery or recording of
documents received in escrow, or other business operations. No person

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having in his or her possession any of these funds or documents shall be liable for failure to comply with the order unless he or she has received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner in whole or in part, the person has been adjudged bankrupt, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing of service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right for a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

This Order is effective as of the date hereof.

Dated: January 4, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner