

FILED
SEP 29 2011
APPEALS OFFICE

BEFORE THE HEARING OFFICER

In the Administrative Action of:)
)
)
 LAS VEGAS ESCROW SERVICES, LLC.,)
 and PATRICIA BASCOM,)
)
 Respondents.)

Appeal No: 80534-GK
80834-GK

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SEP 30 2011

Mortgage Lending Division

DECISION AND ORDER

The above-captioned matter came on for hearing before the Hearing Officer on August 29, 2011. Respondents Patricia Bascom and Las Vegas Escrow Services, LLC were present and represented by Ian Christopherson, Esq. Kali Fox Miller, Esq. was present representing the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter referred to as the "Division").

Respondents appealed an Order to Discontinue (Cease and Desist) and Notice of Right to Request Hearing issued by the Division on October 5, 2010. That matter was assigned hearing number 80534-GK. Respondents also appealed a Notice of Intent to Revoke Escrow Agency License, Notice of Intent to Revoke Escrow Agent License, Notice of Intent to Impose Fine and Notice of Right to Request Hearing issued by the Division on October 5, 2010. That matter was assigned hearing number 80834-GK. The appeals were subsequently consolidated.

On June 30, 2011, the Division filed documentary evidence consisting of 146 pages. At the hearing, that packet of documents was marked and entered into evidence as Agency's Exhibit "A". Respondents filed documentary evidence on August 19, 2011 consisting of 1 page. That document was marked and entered into evidence as Respondents' Exhibit "1". The hearing was conducted pursuant to NRS Chapter 233B, NRS Chapter 645A and all applicable administrative regulations. Biana Stein testified on behalf of the Division. After considering the documentary evidence, the testimony of the witness, and the arguments of counsel, the Hearing Officer finds and concludes as follows:

FINDINGS OF FACT

1. Las Vegas Escrow Services, LLC is a limited liability company organized and existing under the laws of the State of Nevada since August 28, 2008.
2. Respondent secured a certificate of deposit in the amount of \$20,000 as a substitute form of a security in lieu of the surety bond required to obtain a license under Chapter 645A of the Nevada Revised Statutes.
3. On August 19, 2009, Las Vegas Escrow Services, LLC was issued an escrow agency license (number 3220) under the provisions of Chapter 645A of the Nevada Revised Statutes.
4. Patricia Bascom, an individual, is the sole owner, officer, and manager of Las Vegas Escrow Services, LLC. She was licensed by the Division as an escrow agent on behalf of Respondent Las Vegas Escrow Services, LLC.
5. Patricia Bascom and Las Vegas Escrow Services, LLC shall be referred to as Respondents.
6. On November 2, 2009, the Division commenced a regularly scheduled annual examination of Respondents pursuant to NRS 645A.050(2)(b). Biana Stein, Mortgage Lending Examiner II, conducted the examination and issued a report, which was admitted into evidence. She credibly testified at the hearing regarding her findings. Her examination revealed that:
 - (a) Respondents conducted unlicensed escrow activity prior to being issued a license by the Division. This was evidenced by the "Orders Report by Open Date" provided by Respondents. The report reflects that the first escrow file, number 091603, was opened on April 13, 2009, which is three months prior to Respondents being issued a license by the Division under NRS

1 645A of the Nevada Revised Statutes. Respondents' Bank of
2 America Escrow Trust Account records confirm the unlicensed
3 activities and show 4 transactions prior to August 19, 2010;

4 (b) Respondents failed to deposit and keep in full force and effect a
5 corporate surety bond, or substitute form of security, in the
6 amount of \$50,000 as required by an escrow agency with an
7 average monthly trust/escrow account balance between \$50,000
8 and \$250,000. The average monthly balance of Respondents'
9 trust/escrow account for the months of August, September and
10 October 2009 was \$132,323.76. The \$20,000 bond secured by
11 Respondents was insufficient;

12 (c) Respondents failed to maintain complete and suitable records of
13 all escrow transactions it conducted, including, but not limited
14 to, records which clearly identify: the name, address, and
15 telephone number of each homeowner; the account number of
16 each loan; the address and contact information of each lender or
17 loan servicer related to each loan; the amount and date of each
18 deposit; and the amount and date of each withdrawal with the
19 name of each recipient. Ms. Stein indicated Respondents did not
20 enter some checks and deposits into the system, and there were
21 discrepancies between the bank's records and the company's
22 financial records. She also gave examples of fees listed in the
23 wrong accounts and time periods where there were
24 deficiencies/shortages in the trust/escrow account;

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- (d) Respondents failed, at all times, to monthly reconcile balances on deposit equal to all money collected and deposited and not legitimately disbursed to reconcile its bank accounts; and
- (e) Respondents failed to submit an annual financial statement reviewed by an independent public accountant to the Division.

- 7. Ms. Stein further testified that Respondents failed to follow escrow instructions, made numerous reporting errors, and that documentation simply did not match. In conclusion, she indicated the company was given a rating of "5", which is the lowest rating possible indicating the escrow company and its management demonstrated unsatisfactory compliance with the applicable laws and regulations and that immediate remedial action was required, which may include disciplinary action by the Commissioner.
- 8. On October 5, 2010, the Division issued an Order to Discontinue (Cease and Desist) and Notice of Right to Request Hearing.
- 9. Additionally, on October 5, 2010, the Division issued a Notice of Intent to Revoke Escrow Agency License, Notice of Intent to Revoke Escrow Agent License, Notice of Intent to Impose Fine and Notice of Right to Request hearing.
- 10. By correspondence dated October 19, 2010, Respondents requested a hearing regarding both October 5, 2010 actions.
- 11. Any Finding of Fact which may be deemed a Conclusion of Law shall be so considered.

CONCLUSIONS OF LAW

- 1. Chapter 645A of the Nevada Revised Statutes and Chapter 645A of the Nevada Administrative Code govern the licensing and regulation of escrow agencies and escrow agents in the State of Nevada.

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2. The statutes and regulations include the grounds and procedure for revocation and suspension. They also provide for the imposition of administrative fines of not more than \$10,000 per violation and the issuance of orders to cease and desist from engaging in the activities.
3. Under NRS 645A.041(1) and (4), as a condition to doing business in this State, each escrow company shall deposit with the Commissioner, and keep in full force and effect, a corporate surety bond, or a substitute form of security, based on the average monthly balance of its trust or escrow accounts. Based on Respondents' records, it was required to secure a surety bond or substitute security in the amount of \$50,000. This was not done.
4. Under NAC 645A.050, each escrow agency that maintains a trust account shall keep a record of all money deposited in the account, and must include such information as the name of the person who sent the money to the escrow agency, the account in which the money was deposited, the name of the person to whom the money belongs, the date the money was received, the date the money was deposited into the account, the date of each withdrawal from the account, and any other pertinent information concerning the account.
5. Pursuant to NRS 645A.171, an escrow agent may not disburse money from an escrow account unless deposits, which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed, have been received.
6. Under NRS 645A.210, it is unlawful for any person to engage in, carry on, or hold herself out as engaging in or carrying on, the escrow business or act in the capacity of an escrow agent or agency without first obtaining a license as an escrow agent or agency.

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7. Pursuant to NRS 645A.040, not later than 120 days after the last day of each fiscal year, an escrow agency shall submit to the Commissioner a financial statement that has been prepared based on the books and records of the escrow agency by an independent public accountant. The accountant must have reviewed the trust account(s).
8. If it is determined that an escrow agency has not complied with the provisions of this Chapter, the Commissioner may require an audited financial statement be prepared by a certified public accountant.
9. NRS 645A.110 provides the Commissioner with the ability to stop business dealings of those in violation of this Chapter.
10. Pursuant to NRS 645A.090(1), the commissioner may refuse to license any escrow agent or agency or may suspend or revoke any license or impose a fine of not more than \$10,000 for each violation by entering an order to that effect, with the Commissioner's findings in respect thereto, if among other things, the applicant or licensee has violated any provision of this Chapter or Regulation, or has failed to maintain complete and accurate records of all transactions with the last 6 years.
11. In this case, Respondents conducted unlicensed escrow agency and/or escrow agent activity prior to being properly licensed by the Division pursuant to NRS 645A.
12. Respondents failed to maintain complete and suitable records of all escrow transactions it conducted, in violation of NAC 645A.050.
13. Respondents failed to deposit and maintain a sufficient surety bond and/or substitute form of security based upon the average monthly balance of the trust

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- account or escrow account maintained by the escrow agency, in violation of NRS 645A.041.
14. Respondents failed to maintain complete and suitable records of all escrow transactions it conducted, in violation of NAC 645A.050.
15. Respondents failed, at all times, to monthly reconcile balances on deposit equal to all money collected and deposited and not legitimately disbursed to reconcile its bank accounts, in violation of NRS 645A.171(1).
16. Respondents failed to submit an annual financial statement reviewed by an independent public accountant to the Division, in violation of NRS 645A.040 and NRS 645A.050.
17. Respondents failed to submit an annual financial statement prepared by an independent public accountant to the Division after requested by the Commissioner, in violation of NRS 645A.040 and 645A.050.
18. The Division established credible evidence that Respondents violated multiple Statutes and Regulations, and imposed an administrative fine of \$30,000.00 against Respondents, jointly and severally. Per the Commissioner's October 5, 2010 Order, Respondents were also to pay the Division its costs and attorney fees, to be proven at hearing or upon the filing of a proper affidavit with the Division within 30 days of entry of a final order. The testimony and evidence presented before the Hearing Officer support the fines and an award of costs and attorney's fees. The revocation of Respondents' escrow agent/agency licenses is **AFFIRMED.**
19. Any Conclusion of Law which may be deemed a Finding of Fact shall be so considered.

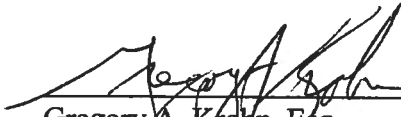
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ORDER

IT IS HEREBY ORDERED that the October 5, 2010 Order to Discontinue (Cease and Desist) and Notice of Right to Request Hearing is AFFIRMED, and was proper.

IT IS FURTHER ORDERED that the October 5, 2010 Notice of Intent to Revoke Escrow Agency License, Notice of Intent to Revoke Escrow Agent License, Notice of Intent to Impose Fine and Notice of Right to Request Hearing is AFFIRMED, and was proper.

IT IS SO ORDERED this 28th day of September, 2011.



Gregory A. Krclin, Esq.
HEARING OFFICER

NOTICE: Pursuant to N.R.S. 233B.130, should any party desire to appeal this final determination of the Appeals Officer, a Petition for Judicial Review must be filed with the District Court within thirty (30) days after service by mail of this decision.

