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5 Attorneys for Complainant

6  
7 BEFORE THE DEPARTMENT OF CORPORATIONS  
8 OF THE STATE OF CALIFORNIA

9  
10 In the Matter of the Accusation of THE ) File No.: 963-2352  
CALIFORNIA CORPORATIONS )  
11 COMMISSIONER, ) ORDER BARRING VILMA M. ESCOBAR  
12 ) FROM ANY POSITION OF EMPLOYMENT,  
Complainant, ) MANAGEMENT OR CONTROL OF ANY  
13 ) ESCROW AGENT  
14 vs. )  
15 A.C.T. ESCROW, INC., FERNANDO )  
MORENO III, and VILMA M. ESCOBAR, )  
16 )  
17 Respondents. )

18 The California Corporations Commissioner (“Commissioner”) finds that:

19 1. Respondent Vilma M. Escobar ("Escobar") was at all times relevant herein an escrow  
20 officer for A.C.T. Escrow, Inc. (“ACT Escrow”), an escrow agent licensed by the California  
21 Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the  
22 State of California (California Financial Code Section 17000 et seq.). ACT Escrow had its principal  
23 place of business located at 42231 6<sup>th</sup> Street W., Suite 205, Lancaster, California 93534. ACT  
24 Escrow also had a branch location situated at 2155 East Garvey Avenue North, Suite B-10, West  
25 Covina, California 91791. Escobar initially worked for ACT Escrow at its Lancaster office, but  
26 more recently worked at ACT Escrow’s West Covina location.

27 2. Respondent Fernando Moreno III ("Moreno") is, and was at all times relevant herein,  
28 the president, a stockholder, and a director of ACT Escrow. Moreno was also the escrow manager at

1 ACT Escrow’s main office in Lancaster, California.

2 3. On or about November 16, 2011, the Commissioner received information from  
3 Moreno that Escobar had admitted embezzling \$92,000.00 in trust funds in violation of Financial  
4 Code section 17414(a)(1). Based upon such information, on or about November 17, 2011, the  
5 Commissioner, by and through staff, commenced a special examination of the books and records of  
6 ACT Escrow.

7 4. The special examination revealed that as of November 16, 2011, ACT Escrow had a  
8 trust account shortage of at least \$400,129.98 at its main office and a trust account shortage of at  
9 least \$97,676.21 at its branch office.

10 5. The special examination further revealed that the books and records had not been  
11 maintained at the West Covina branch since in or about February 2011 in violation of Financial  
12 Code section 17404 and California Code of Regulations, title 10, section 1732.2.

13 6. On or about November 16, 2011, the Commissioner made demand upon ACT Escrow  
14 to immediately open a new trust account at both offices in which all further escrow funds received  
15 by ACT Escrow would be deposited so that new escrow trust funds could remain separate from the  
16 trust funds affected by the shortage. On or about November 18, 2011, ACT Escrow opened a new  
17 trust account for the West Covina branch. On or about November 22, 2011, after further demand,  
18 ACT Escrow finally opened a new trust account for Lancaster main office. However, the special  
19 examination revealed that ACT Escrow never made use of the new trust accounts and continued to  
20 deposit new escrow funds into the old trust accounts.

21 7. On or about November 21, 2011, the Commissioner made written demand upon ACT  
22 Escrow to cure the trust account shortage at the main office no later than November 22, 2011. ACT  
23 Escrow failed to cure the trust account shortage at the main office except that ACT Escrow deposited  
24 \$25,000.00 into the main office trust account from funds it obtained from Escobar along with a  
25 further \$5,000.00 it obtained from Jose Alonso (“Alonso”), the person through which Escobar was  
26 diverting the embezzled escrow funds.

27 8. ACT Escrow’s failure to cure the trust account shortage caused the Commissioner, on  
28 December 6, 2011, to issue an Order To Discontinue Escrow Activities Pursuant to Financial Code

1 section 17415 against ACT Escrow along with a Demand For and Order Taking Possession of the  
2 Trust Account(s) and Escrow Records of ACT Escrow Pursuant to Financial Code Section 17621  
3 and an Order Appointing Peter A. Davidson as Conservator pursuant to Financial Code section  
4 17630. These orders were necessary to offer any possible protection to the escrow customers of  
5 ACT Escrow.

6 9. The special examination of ACT Escrow has yet to be completed due to the lack of  
7 books and records at the West Covina office and the extent of the lapping scheme (transfers of funds  
8 between escrows) employed by Escobar to cover her unauthorized disbursements. However, the  
9 special examination has initially disclosed that commencing on dates unknown, but at least since  
10 March 2010 and continuing through at least June 2011, Escobar made unauthorized disbursements of  
11 escrow trust funds to herself, her friend Jose Alonso (“Alonso”), and/or otherwise totaling at least  
12 \$76,366.37 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of  
13 Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements are part of the  
14 trust account shortage described in Section II above. Escobar also falsified escrow records in an  
15 attempt to cover up the unauthorized disbursements in violation of Financial Code section  
16 17414(a)(2).

17 10. The unauthorized disbursements, lapping, and falsification of records disclosed  
18 initially by the special examination are described as follows:

19 **LANCASTER ESCROW NUMBER 10-4140-VE**

20 A. On or about March 11, 2010, Escobar made an unauthorized disbursement of trust  
21 funds from Lancaster escrow number 10-4140-VE to Alonso in the amount of \$1,000.00 in violation  
22 of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738  
23 and 1738.2. This unauthorized disbursement caused a debit balance (shortage) of \$1,000.00 to exist  
24 in Lancaster escrow number 104140-VE in violation of California Code of Regulations, title 10,  
25 section 1738.1.

26 **LANCASTER ESCROW NUMBER 10-4201-VE**

27 B. On or about August 12, 2010, Escobar made an unauthorized disbursement of trust  
28 funds from Lancaster escrow number 10-4201-VE in the amount of \$1,000.00 in violation of

1 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
2 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4201-VE was used to  
3 pay what appears to be a disbursement authorized in Lancaster escrow number 10-4517-VE.  
4 However, a review of the ledger for Lancaster escrow number 10-4517-VE disclosed that  
5 insufficient funds existed in Lancaster escrow number 10-4517-VE to cover this disbursement.  
6 Accordingly, a shortage of \$1,000.00 will exist in Lancaster escrow number 10-4517 once the  
7 disbursement is posted to the correct escrow ledger.

8 **LANCASTER ESCROW NUMBER 10-4331-VE**

9 C. On or about June 17, 2010, Escobar made an unauthorized disbursement of trust  
10 funds from Lancaster escrow number 11-4140-VE in the amount of \$578.31 in violation of Financial  
11 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
12 This unauthorized disbursement from Lancaster escrow number 10-4140-VE was used to pay what  
13 appears to be a disbursement authorized in Lancaster escrow number 10-4331-VE. A review of the  
14 ledger for Lancaster escrow number 10-4331-VE disclosed insufficient funds to cover this  
15 disbursement. Accordingly, a shortage of \$578.31 in violation of California Code of Regulations,  
16 title 10, section 1738.1 will exist in Lancaster escrow number 10-4331 once the disbursement is  
17 posted to the correct escrow ledger

18 **LANCASTER ESCROW NUMBER 10-4511-VE**

19 D. On or about February 25, 2011, Escobar made an unauthorized disbursement of trust  
20 funds from Lancaster escrow number 10-4511-VE to Alonso in the amount of \$6,350.37 in violation  
21 of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10,  
22 sections 1738 and 1738.2.

23 **LANCASTER ESCROW NUMBER 10-4548-VE**

24 E. On or about October 4, 2010, Escobar made an unauthorized disbursement of trust  
25 funds from Lancaster escrow number 10-4548-VE in the amount of \$2,000.00 in violation of  
26 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
27 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4548-VE was used to  
28 pay what appears to be a disbursement authorized in Lancaster escrow number 10-4201-VE. A

1 review of the ledger for Lancaster escrow number 10-4201-VE disclosed insufficient funds to cover  
2 this disbursement. Once disbursements are posted to the correct escrow ledger, which will include  
3 re-posting a \$1,000.00 disbursement from Lancaster escrow number 10-4201-VE to Lancaster  
4 escrow number 10-4517-VE (see item 2 above), a shortage of \$1,950.00 will exist in Lancaster  
5 escrow number 10-4201-VE in violation of California Code of Regulations, title 10, section 1738.1.

6 **LANCASTER ESCROW NUMBER 10-4805-VE**

7 F. Commencing on or about November 18, 2010 and continuing through December 17,  
8 2010, Escobar made six unauthorized disbursements of trust funds from Lancaster escrow number  
9 10-4805-VE to Alonso totaling \$30,657.00 in violation of Financial Code section 17414, subdivision  
10 (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

11 **LANCASTER ESCROW NUMBER 10-4843-VE:**

12 G. On or about May 25, 2011, Escobar violated Financial Code section 17414(a)(2)  
13 when she prepared a false receipt stating that the sum of \$43,100.20 had been deposited into  
14 Lancaster escrow number 10-4843-VE. A deposit of \$43,100.20 had been received by Act Escrow,  
15 but it was for West Covina escrow number 11-0085-VE, and such funds had been deposited into the  
16 West Covina trust account and a receipt issued for West Covina escrow number 11-0085-VE.

17 H. On or about May 25, May 27, and June 10, 2011, Escobar made unauthorized  
18 disbursements of trust funds from Lancaster escrow number 10-4843-VE to Alonso in the respective  
19 amounts of \$6,000.00, \$5,500.00, and \$7,000.00 in violation of Financial Code section 17414,  
20 subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. In that  
21 there were no funds on deposit in Lancaster escrow number 10-4843-VE, these unauthorized  
22 disbursements caused a shortage of \$18,500.00 to exist in Lancaster escrow number 10-4843-VE in  
23 violation of California Code of Regulations, title 10, section 1738.1.

24 I. On or about May 26, 2011, Escobar made an unauthorized disbursement of trust  
25 funds from Lancaster escrow number 10-4843-VE to the West Covina trust account in the amount of  
26 \$10,000.00 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of  
27 Regulations, title 10, sections 1738 and 1738.2. In that there were no funds on deposit in Lancaster  
28 escrow number 10-4843-VE, this unauthorized disbursement caused the shortage in Lancaster

1 escrow number 10-4843-VE to increase to \$28,500.00.

2 J. On or about May 31, 2011, Escobar made three unauthorized disbursements of trust  
3 funds from Lancaster escrow number 10-4843-VE totaling \$9,375.00 in violation of Financial Code  
4 section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These  
5 unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay  
6 disbursements authorized in West Covina escrow number 11-0074-VE. A review of the ledger for  
7 West Covina escrow number 11-0074-VE disclosed sufficient funds to cover these disbursements.  
8 Accordingly, no shortage appears to have been caused by these disbursements once the  
9 disbursements are posted to the correct escrow ledger.

10 K. On or about June 2, 2011, Escobar made an unauthorized disbursement of trust funds  
11 from Lancaster escrow number 10-4843-VE in the amount of \$3,000.00 in violation of Financial  
12 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
13 This unauthorized disbursement from Lancaster escrow number 10-4843-VE was used to pay what  
14 appears to be an authorized refund of the buyers' deposit in West Covina escrow number 11-0060-  
15 VE. Escobar failed to issue a receipt for the deposit into West Covina escrow number 11-0060-VE  
16 in violation of Financial Code section 17414(a)(2) and California Code of Regulations, title 10,  
17 section 1732.2. However, a review of the ledger for West Covina escrow number 11-0060-VE  
18 discloses that no shortage was caused by this disbursement once the escrow ledger postings have  
19 been corrected.

20 L. On or about June 9, 2011, Escobar made unauthorized disbursements of trust funds  
21 from Lancaster escrow number 10-4843-VE totaling \$2,000.00 in violation of Financial Code  
22 section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These  
23 unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay what  
24 appears to be an authorized refund of the buyers' deposit in Lancaster escrow number 10-4140-VE.  
25 A review of the ledger for Lancaster escrow number 10-4140-VE disclosed insufficient funds to  
26 cover the disbursements due to unauthorized disbursements in Lancaster escrow number 10-4140-  
27 VE, which will cause a shortage of \$1,000.00 in Lancaster escrow number 10-4140-VE to exist in  
28 violation of California Code of Regulations, title 10, section 1738.1 once the disbursements are

1 posted to the correct escrow ledger (see item A above).

2 M. On or about June 13, 2011, Escobar made two unauthorized disbursements of trust  
3 funds from Lancaster escrow number 10-4843-VE totaling \$1,464.40 in violation of Financial Code  
4 section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These  
5 unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay what  
6 appear to be disbursements authorized in West Covina escrow number 11-0077-VE. A review of the  
7 ledger for West Covina escrow number 11-0077-VE disclosed sufficient funds to cover these  
8 disbursements. Accordingly, no shortage appears to have been caused by these disbursements once  
9 the disbursements are posted to the correct escrow ledger.

10 N. On or about June 17, 2011, Escobar made an unauthorized disbursement of trust  
11 funds from Lancaster escrow number 10-4843-VE in the amount of \$1,000.00 in violation of  
12 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
13 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4843-VE appears to  
14 have been used to refund an escrow deposit for an unknown escrow. From the information available  
15 to date, it does not appear that this disbursement will cause a shortage once the disbursement is  
16 posted to the correct escrow ledger.

17 O. On or about August 15, 2011, Escobar made an unauthorized disbursement of trust  
18 funds from Lancaster escrow number 10-4843-VE to an account at Wells Fargo Dealer Services in  
19 the amount of \$15,982.60 in violation of Financial Code section 17414, subdivision (a)(1) and  
20 California Code of Regulations, title 10, sections 1738 and 1738.2. In that there were no funds on  
21 deposit in Lancaster escrow number 10-4843-VE, this unauthorized disbursement caused a further  
22 shortage of \$15,982.60 to exist in Lancaster escrow number 10-4843-VE in violation of California  
23 Code of Regulations, title 10, section 1738.1, increasing the total shortage in this escrow to  
24 \$44,482.60.

25 **LANCASTER ESCROW NUMBER 10-4866-VE**

26 P. On or about April 20, 2011, Escobar made an unauthorized disbursement of trust  
27 funds from Lancaster escrow number 10-4866-VE in the amount of \$2,153.00 to Alonso in violation  
28 of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738

1 and 1738.2.

2 Q. On or about May 3, 2011, Escobar made an unauthorized disbursement of trust funds  
3 from Lancaster escrow number 10-4866-VE in the amount of \$3,000.00 in violation of Financial  
4 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
5 This unauthorized disbursement from Lancaster escrow number 10-4866-VE was used to pay what  
6 appears to be a disbursement authorized in Lancaster escrow number 10-4829-VE. A review of the  
7 ledger for Lancaster escrow number 10-4829-VE disclosed insufficient funds to cover this  
8 disbursement. Accordingly, a shortage of \$3,000.00 will exist in Lancaster escrow number 10-4829-  
9 VE in violation of California Code of Regulations, title 10, section 1738.1 once the disbursement is  
10 posted to the correct escrow ledger.

11 **WEST COVINA ESCROW NUMBER 11-0040-VE:**

12 R. On or about January 14, January 21, and February 11, 2011, Escobar made  
13 unauthorized disbursements of trust funds from West Covina escrow number 11-0040-VE to Alonso  
14 in the respective amounts of \$5,000.00, \$3,000.00, and \$3,706.00 in violation of Financial Code  
15 section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and  
16 1738.2. These unauthorized disbursements caused a shortage of at least \$11,706.00 to exist in this  
17 escrow in violation of California Code of Regulations, title 10, section 1738.1 because insufficient  
18 funds existed to cover these disbursements once the false receipt described in paragraph S below is  
19 reversed.

20 S. On or about January 27, 2011, Escobar violated Financial Code section 17414(a)(2)  
21 when she prepared a false receipt stating that the sum of \$12,900.00 had been deposited into West  
22 Covina escrow number 11-0040-VE. A deposit of \$12,900.00 had been received by Act Escrow, but  
23 it was for West Covina escrow number 11-0046-VE, and such funds had been deposited into the  
24 West Covina trust account and a receipt issued in West Covina escrow number 11-0046-VE.

25 T. On or about February 1, 2011, Escobar made two unauthorized disbursements of trust  
26 funds from West Covina escrow number 11-0040-VE totaling \$1,194.00 in violation of Financial  
27 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
28 These unauthorized disbursements from West Covina escrow number 11-0040-VE were used to pay



1 what appear to be disbursements authorized in Lancaster escrow number 10-4548-VE. A review of  
2 the ledger for Lancaster escrow number 10-4548-VE disclosed sufficient funds to cover these  
3 disbursements. Accordingly, no shortage appears to have been caused by these disbursements once  
4 the disbursements are posted to the correct escrow ledger, which would include re-posting a  
5 \$2,000.00 disbursement from Lancaster escrow number 10-4548-VE to Lancaster escrow number  
6 10-4201-VE (see item E above).

7 **WEST COVINA ESCROW NUMBER 11-0046-VE**

8 U. On or about April 6, 2011, Escobar made an unauthorized disbursement of trust funds  
9 from West Covina escrow number 11-0046-VE in the amount of \$6,000.00 to Alonso in violation of  
10 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
11 1738.2. This unauthorized disbursement caused a shortage of at least \$6,000.00 to exist in this  
12 escrow in violation of California Code of Regulations, title 10, section 1738.1 because insufficient  
13 funds existed to cover this disbursement once the false receipt described in paragraph V below is  
14 reversed.

15 V. On or about April 12, 2011, Escobar violated Financial Code section 17414(a)(2)  
16 when she prepared a false receipt stating that the sum of \$110,262.74 had been deposited into West  
17 Covina escrow number 11-0046-VE. A deposit of \$110,262.74 had been received by Act Escrow,  
18 but it was for Lancaster escrow number 10-4866-VE, and such funds had been deposited into the  
19 West Covina trust account and a receipt issued in Lancaster escrow number 10-4866-VE.

20 11. The above-described violations constitute grounds under Financial Code section  
21 17423 to bar a person from any position of employment, management or control under the Escrow  
22 Law.

23 12. On May 14, 2012, the Commissioner issued a Notice of Intention to Issue Order  
24 Revoking Escrow Agent's License and to Issue Orders Pursuant to California Financial Code  
25 Section 17423 (Bar From Employment, Management or Control of Any Escrow Agent), Accusation  
26 and accompanying documents against ACT Escrow, Moreno and Escobar based upon the above.  
27 Escobar was personally served on May 17, 2012. The Department has received no request for a  
28 hearing from Escobar and the time to request a hearing has expired.

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NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent  
Vilma M. Escobar is barred from any position of employment, management or control of any escrow  
agent.

Dated: June 4, 2012  
Los Angeles, CA

JAN LYNN OWEN  
California Corporations Commissioner

By \_\_\_\_\_  
Alan S. Weinger  
Deputy Commissioner  
Enforcement Division