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California Corporations Commissioner  
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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

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11 In the Matter of the Accusation THE ) Case No.: 963-1201  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) ACCUSATION  
13 )  
Complainant, )  
14 )  
15 vs. )  
16 APPLE ESCROW, MARY ANN PALMER, and )  
VERONICA AMAYA, )  
17 )  
18 Respondents. )

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

21 I

22 Respondent Apple Escrow ("Apple Escrow") is an escrow agent licensed by the California  
23 Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the  
24 State of California (California Financial Code Section 17000 et seq.). Apple Escrow had its  
25 principal place of business at 13585 Whittier Boulevard, Suite 103, Whittier, California 90605.

26 Respondent Mary Ann Palmer ("Palmer") was at all times relevant herein the manager of  
27 Apple Escrow.

28 Respondent Veronica Amaya ("Amaya") was at all times relevant herein an escrow officer at

1 Apple Escrow.

2 II

3 On or about March 10, 2010, the Commissioner received information that a check written  
4 against the trust account of Apple Escrow had been returned non-sufficient funds. Based upon such  
5 information, the Commissioner, by and through his staff, commenced a special examination of the  
6 books and records of Apple Escrow on or about March 11, 2010.

7 The special examination revealed among other violations, that Apple Escrow had a trust  
8 account shortage of at least \$47,707.32 in violation of California Code of Regulations, title 10,  
9 section 1738.1. The special examination further revealed that the shortage was the result of at least  
10 sixteen (16) disbursements that Apple Escrow, by and through Palmer and Amaya, made from the  
11 trust account to its general account in the form of unauthorized fees or other unauthorized  
12 disbursements. These disbursements, which commenced in or about April 2008 and continued  
13 through at least March 9, 2010, were in violation of Financial Code sections 17409, 17414(a)(1),  
14 17420 and/or 17421 and California Code of Regulations, title 10, sections 1738 and 1738.2. The  
15 Commissioner has made several demands on Apple Escrow to cure the trust account shortage  
16 described herein. However, Apple Escrow has failed to cure the shortage and continues in its failure  
17 to cure the shortage. Further investigation disclosed that Apple Escrow, by and through Palmer and  
18 Amaya, had also misappropriated \$19,613.79 in dormant escrow trust funds between October 27,  
19 2008 and December 31, 2008. The special examination has yet to be completed.

20 A. Unauthorized Fees:

21 The unauthorized fees discovered during the special examination of Apple Escrow are  
22 described as follows:

23 1. On or about June 15 and June 16, 2009, in escrow number 08-9529-va, Respondents  
24 disbursed \$10,000.00 in unauthorized escrow fees to Apple Escrow by way of trust check numbers  
25 13138 and 13139 in the respective amounts of \$7,000.00 and \$3,000.00 in violation of Financial  
26 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
27 Additionally, Respondents had taken escrow fees totaling \$15,000.00 prior to close of escrow in  
28 violation of Financial Code sections 17414(a)(1), 17420 and 17421. The unauthorized

1 disbursements described herein caused a debit balance to exist in this escrow in the amount of  
2 \$10,000.00 in violation of California Code of Regulations, title 10, section 1738.1, and also caused a  
3 trust account shortage in the same amount.

4         2.       On or about December 5, 2008, in escrow number 08-9578-va, Respondents  
5 disbursed \$1,000.00 in unauthorized and unearned escrow fees to Apple Escrow by way of trust  
6 check number 12856 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and  
7 California Code of Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement  
8 described herein caused a debit balance to exist in this escrow in the amount of \$1,000.00 in  
9 violation of California Code of Regulations, title 10, section 1738.1, and also caused a trust account  
10 shortage in the same amount when escrow later canceled on or about March 9, 2009 and the buyer's  
11 deposit was refunded in full.

12         3.       The Commissioner has been unable to determine the cause of the debit balance of  
13 \$7,629.00 in escrow number 08-9595-va and the corresponding trust account shortage as  
14 Respondents have failed to provide the Commissioner with the escrow file in violation of Financial  
15 Code section 17404.

16         4.       On or about August 17, 2009, in escrow number 09-9666-va, Respondents disbursed  
17 \$1,865.00 in unauthorized and unearned escrow fees to Apple Escrow by way of trust check number  
18 13256 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and California Code of  
19 Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement described herein  
20 caused a debit balance to exist in this escrow in the amount of \$1,865.00 in violation of California  
21 Code of Regulations, title 10, section 1738.1, and further caused a trust account shortage in the same  
22 amount when escrow later canceled on or about January 10, 2010 and the buyer's deposit was  
23 refunded in full.

24         5.       On or about September 17, 2009, in escrow number 09-9674-va, Respondents  
25 disbursed \$2,061.00 in unauthorized and unearned escrow fees to Apple Escrow by way of trust  
26 check number 13277 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and  
27 California Code of Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement  
28 described herein caused a debit balance to exist in this escrow in the amount of \$1,391.00 in

1 violation of California Code of Regulations, title 10, section 1738.1, and also caused a trust account  
2 shortage in the same amount when escrow later canceled on or about December 3, 2009 and a refund  
3 check was issued to the buyer in the amount of the deposit less a \$750.00 cancellation fee, which fee  
4 remains in dispute.

5         6.       On or about October 8, 2009, in escrow number 09-9681-va, Respondents disbursed  
6 \$1,5051.00 in unauthorized and unearned escrow fees to Apple Escrow by way of trust check  
7 number 13295 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and California  
8 Code of Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement described  
9 herein caused a debit balance to exist in this escrow in the amount of \$1,255.00 in violation of  
10 California Code of Regulations, title 10, section 1738.1, and also caused a trust account shortage in  
11 the same amount when escrow later canceled on or about December 3, 2009 and a refund check was  
12 issued to the buyer in the amount of the deposit less a \$250.00 cancellation fee.

13         7.       On or about December 21, 2009, in escrow number 09-9700-va, Respondents  
14 disbursed \$3,200.00 in unauthorized and unearned escrow fees to Apple Escrow by way of trust  
15 check number 13334 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and  
16 California Code of Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement  
17 described herein caused a debit balance to exist in this escrow in the amount of \$3,200.00 in  
18 violation of California Code of Regulations, title 10, section 1738.1, and also caused a trust account  
19 shortage in the same amount as no funds were ever deposited into this escrow.

20         8.       On or about March 3, 2010, in escrow number 10-9715-va, Respondents disbursed  
21 \$1,236.20 in unauthorized and unearned escrow fees to Apple Escrow by way of trust check number  
22 13425 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and California Code of  
23 Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement described herein  
24 caused a debit balance to exist in this escrow in the amount of \$236.20 in violation of California  
25 Code of Regulations, title 10, section 1738.1, and also caused a trust account shortage in the same  
26 amount as only \$1,000.00 in funds had been deposited into this escrow. On or about March 12,  
27 2010, after the special examination commenced, Apple Escrow deposited the sum of \$236.20 into  
28 this escrow from its general to cover the debit balance. However, as escrow number 10-9715-va

1 never closed prior to the Commissioner having taken possession of Apple Escrow as further  
2 described below, a debit balance of \$1,000.00 and corresponding trust account shortage currently  
3 exists in this escrow as Apple Escrow will not earn the escrow fees represented by the additional  
4 \$1,000.00 taken back on March 3, 2010.

5 9. On or about March 3, 2010, in escrow number 10-9716-va, Respondents disbursed  
6 \$2,557.50 in unauthorized and unearned escrow fees to Apple Escrow by way of trust check number  
7 13426 in violation of Financial Code section 17414(a)(1), 17420 and 17421 and California Code of  
8 Regulations, title 10, sections 1738 and 1738.2. The unauthorized disbursement described herein did  
9 not cause a debit balance to the escrow as sufficient funds existed to cover the unauthorized  
10 disbursement. Additionally, a trust account shortage did not ensue as a result of the unauthorized  
11 disbursement as escrow closed and the escrow fee previously taken became earned.

12 B. Unlawful Transfers:

13 The unlawful transfers discovered during the special examination of Apple Escrow are  
14 described as follows:

15 1. On or about October 27, 2009, Respondents made an unauthorized disbursement of  
16 trust funds to the Apple Escrow general account in the amount of \$6,200.00 via wire number 4758 in  
17 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
18 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
19 Apple Escrow causing a shortage in the amount of \$6,200.00 to exist in the trust account.

20 2. On or about October 28, 2009, Respondents made an unauthorized disbursement of  
21 trust funds to the Apple Escrow general account in the amount of \$2,500.00 via wire number 5205 in  
22 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
23 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
24 Apple Escrow causing a shortage in the amount of \$2,500.00 to exist in the trust account.

25 3. On or about October 31, 2009, Respondents made an unauthorized disbursement of  
26 trust funds to the Apple Escrow general account in the amount of \$1,850.00 via wire number 14669  
27 in violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations,  
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1 title 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses  
2 of Apple Escrow causing a shortage in the amount of \$1,850.00 to exist in the trust account.

3 4. On or about December 29, 2009, Respondents made an unauthorized disbursement of  
4 trust funds to the Apple Escrow general account in the amount of \$6,300.00 via wire number 7448 in  
5 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
6 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
7 Apple Escrow causing a shortage in the amount of \$6,300.00 to exist in the trust account.

8 5. On or about January 12, 2010, Respondents made an unauthorized disbursement of  
9 trust funds to the Apple Escrow general account in the amount of \$1,300.00 via wire number 3806 in  
10 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
11 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
12 Apple Escrow causing a shortage in the amount of \$1,300.00 to exist in the trust account.

13 6. On or about February 16, 2010, Respondents made an unauthorized disbursement of  
14 trust funds to the Apple Escrow general account in the amount of \$1,500.00 via wire number 9550 in  
15 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
16 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
17 Apple Escrow causing a shortage in the amount of \$1,500.00 to exist in the trust account.

18 7. On or about March 9, 2010, Respondents made an unauthorized disbursement of trust  
19 funds to the Apple Escrow general account in the amount of \$1,100.00 via wire number 5093 in  
20 violation of Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
21 10, sections 1738 and 1738.2. The trust funds were used to pay the general operating expenses of  
22 Apple Escrow causing a shortage in the amount of \$1,100.00 to exist in the trust account.

23 C. Over-disbursements:

24 1. On or about June 4, 2009, in escrow number 09-9637-va, Respondents over-disbursed  
25 loan proceeds by \$381.12 causing a debit balance to exist in the escrow in violation of California  
26 Code of Regulations, title 10, section 1738.1, and further caused a trust account shortage in the same  
27 amount.  
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1 D. Misappropriation of Dormant Trust Funds:

2 Commencing on or about October 27, 2008 and continuing through at least December 31,  
3 2008, Apple Escrow, by and through Palmer and Amaya, misappropriated at least \$19,613.79 in  
4 dormant trust funds by canceling the original outstanding trust checks and re-issuing the checks to  
5 Apple Escrow. A chart of each of the twenty-five unauthorized disbursements is attached and  
6 incorporated herein as Exhibit A.

7 III

8 The Commissioner also discovered during the special examination that Apple Escrow had  
9 failed to perform monthly bank reconciliations on the trust account since May 31, 2008 in violation  
10 of Financial Code section 17404 and California Code of Regulations, title 10, section 1732.2. On or  
11 about March 11, 2010, the Commissioner demanded that Apple Escrow provide a trust account bank  
12 reconciliation for the period ended February 28, 2010, however, Apple Escrow has failed to provide  
13 the bank reconciliation. A trust account reconciliation for the period ended February 28, 2010  
14 prepared by the Commissioner based upon Apple Escrow’s month-end reports and trust bank  
15 statements disclosed a negative adjusted balance of \$67,385.36 in the trust account. However, the  
16 Commissioner has been unable to review specific documents relating to the adjusting items, and is  
17 therefore unable to ascertain the exact amount of the trust account shortage.

18 IV

19 Respondents’ unlawful actions described above caused the Commissioner, on April 20, 2010,  
20 to issue a Demand For and Order Taking Possession of the Business and Property of Apple Escrow  
21 pursuant to Financial Code section 17621 and an Order Appointing Peter A. Davidson as  
22 Conservator pursuant to Financial Code section 17630. The orders were necessary in order to offer  
23 any possible protection to the escrow customers of Apple Escrow.

24 V

25 California Financial Code section 17608 provides in pertinent part:

26 The commissioner may, after notice and a reasonable opportunity to  
27 be heard, suspend or revoke any license if he finds that:

- 28 (b) The licensee has violated any provision of this division or any  
rule made by the commissioner under and within the authority of this

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division.

(c) Any fact or condition now 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 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.

VI

Complainant finds that, by reason of the foregoing, Respondents Apple Escrow, Palmer and Amaya have violated Financial Code sections 17404, 17409, and 17414(a)(1) and California Code of Regulations, title 10, sections 1732.2, 1738, 1738.1, and 1738.2 and it is in the best interests of the public to revoke the escrow agent’s license of Respondent Apple Escrow and to bar Respondents Palmer and Amaya from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondents Palmer and Amaya be barred from any position of employment, management or control of any escrow agent and the escrow agent’s license of Respondent Apple Escrow be revoked effective upon the termination of the conservatorship, or receivership, if a receiver is later appointed.

Dated: May 3, 2010  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Judy L. Hartley  
Senior Corporations Counsel