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Deputy Commissioner  
2 JUDY L. HARTLEY (CA BAR NO. 110628)  
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3 Department of Corporations  
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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.: 963-2547  
CALIFORNIA CORPORATIONS )  
11 COMMISSIONER, ) ACCUSATION  
12 )  
Complainant, )  
13 )  
14 vs. )  
15 JACQUELINE BURCHELL, )  
16 Respondent. )  
17 \_\_\_\_\_)

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

20 I

21 Respondent Jacqueline Burchell ("Burchell") was at all times relevant herein employed as the  
22 escrow manager and an escrow officer at Point Break Escrow, Inc. ("Point Break"), an escrow agent  
23 licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant  
24 to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.).  
25 Point Break is currently located at 151 Kalmus Drive, Suite D200, Costa Mesa, California 90601.

26 II

27 On or about September 22, 2011, the Department of Corporations ("Department") received  
28 information that Burchell was processing fraudulent transactions at Point Break. Based upon such

1 information, the Commissioner, by and through staff, commenced a special examination of Point  
2 Break to review the escrow files concerning ten properties. The examination disclosed that Burchell,  
3 who was the escrow officer in each of the escrow files, repeatedly violated the Escrow Law while  
4 processing double escrows as described in more detail below.

5 1. Point Break Escrow #12530-JB

6 a. On or about January 31, 2011, Burchell made, or caused to be made, an unauthorized  
7 disbursement of trust funds in the amount of \$1,500.00 to a Robert Urrera in violation of Financial  
8 Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there  
9 was no signed instruction authorizing the disbursement.

10 b. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(2)  
11 by preparing, or causing to be prepared, a Final Master Settlement Statement that misrepresented the  
12 payment described in paragraph 1.a. as “miscellaneous fee to split from seller proceeds”.

13 c. On or about January 31, 2011, Burchell further violated Financial Code section  
14 17414(a)(2) by preparing or causing to be prepared a Final Master Settlement Statement that  
15 misrepresented a refund to the buyer in the amount of \$250.00 as “messenger fees”.

16 d. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(1)  
17 and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the  
18 short sale approval from the first lien holder provided that the subject property was not to be  
19 transferred within 30 days of close of escrow and Burchell was processing another escrow  
20 transaction at the same time in which the subject property would be transferred to a third party upon  
21 close of escrow.

22 e. On or about February 1, 2011, Burchell made, or caused to be made, an unauthorized  
23 disbursement of trust funds in the amount of \$10,500.00 in real estate commissions in violation of  
24 Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in  
25 that the short sale approval from the first lien holder provided for no commissions as a condition of  
26 closing escrow.

27 2. Point Break Escrow #12617-JB

28 a. On or about January 31, 2011, Burchell made, or caused to be made, an unauthorized

1 disbursement of trust funds in the amount of \$147,513.83 to Point Break escrow number 12530-JB  
2 in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738  
3 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.  
4 This disbursement consisted of buyer deposits, which Burchell transferred to escrow number 12530-  
5 JB, for use by the sellers to purchase the property being sold in this escrow.

6 b. On or about January 31, 2011, Burchell violated Financial Code section 17414(a)(1)  
7 and Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the  
8 lender’s instructions specifically provided that escrow “cannot close if sale is subject to seller  
9 obtaining title” and “you (escrow) are aware of any other transactions involving the borrower or the  
10 subject property in the previous 90 days that have not been approved by lender” and Burchell was  
11 processing another escrow transaction at the same time in which the subject property was being  
12 acquired by the borrower.

13 c. On or about February 2, 2011, Burchell made, or caused to be made, an unauthorized  
14 disbursement of trust funds in the amount of \$20,000.00 to Jameson Rodgers at Home Rescue  
15 Foundation in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10,  
16 sections 1738 and 1738.2 in that there was no signed instruction authorizing the disbursement.

17 3. Point Break Escrow #12533-JB

18 a. On or about December 30, 2010, Burchell violated Financial Code section  
19 17414(a)(2) by preparing or causing to be prepared two different Final Master Settlement Statements  
20 of which neither was accurate.

21 b. On or about January 12, 2011, Burchell made, or caused to be made, an unauthorized  
22 disbursement of trust funds in the amount of \$16,500.00 to Uptown Realtors in violation of Financial  
23 Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there  
24 was no signed instruction authorizing the disbursement and the short sale approval from the first lien  
25 holder provided for no commissions as a condition of closing escrow.

26 4. Point Break Escrow #12550-JB

27 a. On or about February 8, 2011, Burchell violated Financial Code section 17404 by  
28 failing to maintain a copy of the lender’s closing worksheet in the escrow file.

1           5.       Point Break Escrow #12553-JB

2           a.       On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized  
3 disbursement of trust funds in the amount of \$30,000.00 to Remax of North County in violation of  
4 Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in  
5 that the short sale approval from the first lien holder provided for no commissions as a condition of  
6 closing escrow.

7           b.       On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized  
8 disbursement of trust funds in the amount of \$69,500.00 to Green Tree Servicing in violation of  
9 Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in  
10 that the short sale approval from the first lien holder provided for the payment of only \$5,000.00 to  
11 the second lien holder as a condition of closing escrow.

12          c.       On or about January 19, 2011, Burchell made, or caused to be made, an unauthorized  
13 disbursement of trust funds in the amount of \$3,216.89 to pay off an HOA lien in violation of  
14 Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in  
15 that the short sale approval from the first lien holder provided for no payment of HOA liens as a  
16 condition of closing escrow.

17          6.       Point Break Escrow #12722-JB

18          a.       On or about April 21, 2011, Burchell violated Financial Code section 17414(a)(1) and  
19 Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short  
20 sale approval from the first lien holder provided for a maximum payment of \$18,750.00 in  
21 commissions as a condition of closing escrow and Burchell disbursed, or caused to be disbursed, the  
22 sum of \$63,312.00 in commissions.

23          b.       On or about April 21, 2011, Burchell violated Financial Code section 17414(a)(1) and  
24 Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short  
25 sale approval from the first lien holder provided that the subject property was not to be transferred  
26 within 30 days of close of escrow and Burchell was processing another escrow transaction at the  
27 same time in which the subject property would be transferred to a third party upon close of escrow.  
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7. Point Break Escrow #13082-JB

a. On or about April 27, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of \$1,400.00 to Cellular One in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

b. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of \$23,174 to Point Break escrow number 12529-JB in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

8. Point Break Escrow #12797-JB

a. On or about March 30, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of \$150,000.00 to notary public Erick Martin Lopezsalas in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell knew, or should have known, the escrow amendment authorizing the disbursement was forged.

9. Point Break Escrow #12875-JB

a. On or about May 25, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of \$50,000.00 to Wells Fargo Bank in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the short sale approval from the first lien holder provided for a maximum payment of \$3,000.00 to the second lien holder as a condition of closing escrow.

b. On or about May 25, 2011, Burchell violated Financial Code section 17414(a)(2) by preparing, or causing to be prepared, two different Final Master Settlement Statements.

c. On or about June 1, 2011, Burchell made, or caused to be made, an unauthorized disbursement of trust funds in the amount of \$16,000.00 to Coldwell Banker in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there was no signed instruction authorizing such a disbursement and the short sale approval from the first

1 lien holder provided for maximum payment of \$15,250.00 in commissions as a condition of closing  
2 escrow.

3 10. Point Break Escrow #12912-JB

4 a. On or about April 15, 2011, Burchell made, or caused to be made, an unauthorized  
5 disbursement of trust funds in the amount of \$138,000.00 to notary public Erick Martin Lopezsalas  
6 in violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738  
7 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell  
8 knew, or should have known, the escrow amendment authorizing the disbursement was forged.

9 b. On or about April 15, 2011 Burchell violated Financial Code section 17414(a)(2) by  
10 preparing, or causing to be prepared, a false Final Master Settlement Statements.

11 c. On or about April 15, 2011, Burchell violated Financial Code section 17404 by  
12 failing to maintain the first and second lien holders' short sale approval documents in the escrow  
13 file.

14 d. On or about April 17, 2011, Burchell made, or caused to be made, an unauthorized  
15 disbursement of trust funds in the amount of \$35,668.03 to Cellular One in violation of Financial  
16 Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that the  
17 signed instruction authorizing the disbursement was forged, and Burchell knew, or should have  
18 known, the escrow amendment authorizing the disbursement was forged.

19 e. On or about April 17, 2011, Burchell made, or caused to be made, an unauthorized  
20 disbursement of trust funds in the amount of \$3,500.00 to Point Break escrow number 13041-JB in  
21 violation of Financial Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738  
22 and 1738.2 in that the signed instruction authorizing the disbursement was forged, and Burchell  
23 knew, or should have known, the escrow amendment authorizing the disbursement was forged.

24 11. Point Break Escrow #13041-JB

25 a. On or about April 21, 2011, Burchell made, or caused to be made, an unauthorized  
26 disbursement of trust funds in the amount of \$1,000.00 to Cellular One in violation of Financial  
27 Code sections 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there  
28 was no signed instruction authorizing the disbursement.

1           12.    Point Break Escrow #12929-JB

2           a.       On or about April 15, 2011, Burchell violated Financial Code section 17404 by  
3 failing to maintain the first lien holder short sale approval documents in the escrow file.

4           13.    Point Break Escrow #12941-JB

5           a.       On or about April 15, 2011, Burchell violated Financial Code section 17404 and  
6 California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final  
7 Master Settlement Statement for the transaction.

8           14.    Point Break Escrow #12962-JB

9           a.       On or about May 4, 2011, Burchell violated Financial Code section 17404 and  
10 California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final  
11 Master Settlement Statement(s) containing both sides of the transaction.

12           b.       On or about May 4, 2011, Burchell violated Financial Code section 17404 by failing  
13 to maintain a copy of the title charges and payoff worksheet in the escrow file.

14           15.    Point Break Escrow #13014-JB

15           a.       On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized  
16 disbursement of trust funds in the amount of \$368,267.38 to Point Break escrow number 12962-JB  
17 in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738  
18 and 1738.2 in that there was no signed instruction authorizing the disbursement. Additionally, as  
19 this escrow had not closed, ownership of these funds had not yet transferred to the seller, Discounted  
20 Property Investments, who with the assistance of Burchell, was using these funds to purchase the  
21 subject property in Point Break escrow number 12962-JB. (See paragraph 14 above).

22           c.       On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized  
23 disbursement of trust funds in the amount of \$75,800.00 to Home Mutual Investment in violation of  
24 Financial Code sections 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and  
25 1738.2 in that there was no signed instruction authorizing the disbursement and payment of fees  
26 and/or commissions is prohibited prior to close of escrow.

27           d.       On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized  
28 disbursement of trust funds in the amount of \$37,600.00 to DGF, Inc. in violation of Financial Code

1 section 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and 1738.2 in that  
2 there was no signed instruction authorizing the disbursement and payment of fees and/or  
3 commissions is prohibited prior to close of escrow.

4 e. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized  
5 disbursement of escrow fees in the amount of \$7,525.00 to Point Break in violation of Financial  
6 Code section 17414(a)(1) and 17420 and Code of Regulations, title 10, sections 1738 and 1738.2 in  
7 that payment of fees and/or commissions is prohibited prior to close of escrow.

8 f. On or about May 5, 2011, Burchell violated Financial Code section 17404 and  
9 California Code of Regulations, title 10, section 1741.3 by preparing a Final Master Settlement  
10 Statement notwithstanding that the escrow had yet to close.

11 16. Point Break Escrow #13019-JB

12 a. On or about May 9, 2011, Burchell violated Financial Code section 17414(a)(2) by  
13 misrepresenting on receipt number 944 that the \$79,772.50 deposited into escrow was from the  
14 buyers, Discount Property Investment, when the funds were monies on deposit in Point Break  
15 escrow number 13040-JB (a concurrent escrow wherein Discounted Property Investment was selling  
16 the property to another party), which had yet to close. (See paragraph 17 below).

17 b. On or about May 9, 2011, Burchell violated Financial Code section 17404 by failing  
18 to maintain escrow records, i.e., estimated settlement statements referred to as having been received  
19 by the title company from escrow were not retained in the escrow file.

20 c. On or about May 9, 2011, Burchell violated Financial Code section 17414(a)(1) and  
21 Code of Regulations, title 10, sections 1738 and 1738.2 by causing escrow to close in that the short  
22 sale approval from the first lien holder provided that the subject property was not to be transferred  
23 within 30 days of close of escrow and Burchell was processing another escrow transaction at the  
24 same time in which the subject property would be transferred to a third party upon close of this  
25 escrow.

26 d. On or about June 9, 2011, Burchell made, or caused to be made, an unauthorized  
27 disbursement of trust funds in the amount of \$3,625.00 to Nabinor, Inc. in violation of Financial  
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1 Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there  
2 was no signed instruction authorizing the disbursement.

3 17. Point Break Escrow #13040-JB

4 a. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized  
5 disbursement of trust funds in the amount of \$79,772.50 to Point Break escrow number 13019-JB in  
6 violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and  
7 1738.2 in that there was no signed instruction authorizing the disbursement. This disbursement was  
8 comprised of funds from the buyers' deposits in this escrow, which Burchell transferred to escrow  
9 number 13019-JB to be used by the sellers in this escrow to purchase the property that was being  
10 sold in this escrow.

11 b. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized  
12 disbursement of trust funds in the amount of \$35,943.00 to D & G, Inc. in violation of Financial  
13 Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in that there  
14 was no signed instruction in the escrow file authorizing the disbursement.

15 c. On or about May 9, 2011, Burchell made, or caused to be made, an unauthorized  
16 disbursement of trust funds in the amount of \$63,543.00 to Air Investments, Inc. in violation of  
17 Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and 1738.2 in  
18 that there was no signed instruction in the escrow file authorizing the disbursement.

19 d. On or about May 9, 2011, Burchell violated Financial Code section 17404 and  
20 California Code of Regulations, title 10, section 1741.3 by failing to prepare and/or maintain a Final  
21 Master Settlement Statement regarding both sides of the transaction.

22 e. On or about May 15, 2011, Burchell made, or caused to be made, an unauthorized  
23 disbursement of trust funds in the amount of \$109,509.08 to Point Break escrow number 12529-JB  
24 in violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738  
25 and 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

26 f. On or about May 15, 2011, Burchell made, or caused to be made, an unauthorized  
27 disbursement of trust funds in the amount of \$1,500.00 to Point Break escrow number 12531-JB in  
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1 violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and  
2 1738.2 in that there was no signed instruction in the escrow file authorizing the disbursement.

3 18. Point Break Escrow #13026-JB

4 a. On or about May 5, 2011, Burchell made, or caused to be made, an unauthorized  
5 disbursement of trust funds in the amount of \$17,969.11 to Point Break escrow number 13014-JB in  
6 violation of Financial Code section 17414(a)(1) and Code of Regulations, title 10, sections 1738 and  
7 1738.2 in that there was no signed instruction authorizing the disbursement.

8 III

9 California Financial Code section 17423 provides in pertinent part:

10 (a) The commissioner may, after appropriate notice and opportunity  
11 for hearing, by order, . . . suspend for a period not exceeding 12 months, or  
12 bar from any position of employment, management, or control any escrow  
agent, or any other person, if the commissioner finds either of the following:

13 (1) That the . . . suspension or bar is in the public interest and that the person  
14 has committed or caused a violation of this division or rule or order of  
15 the commissioner, which violation was either known or should have  
16 been known by the person committing or causing it or has caused material  
damage to the escrow agent or to the public.

17 IV

18 Complainant finds that, by reason of the foregoing, Respondent Burchell has violated  
19 sections 17404, 17414(a)(1), 17414(a)(2), and 17420 of the California Financial Code and sections  
20 1738, 1738.2, and 1741.3 of the California Code of Regulations, and it is in the best interests of the  
21 public to bar Respondent Burchell from any position of employment, management or control of any  
22 escrow agent.

23 WHEREFORE, IT IS PRAYED that Respondent Burchell be barred from any position of  
24 employment, management or control of any escrow agent.

25 Dated: August 2, 2012  
26 Los Angeles, CA

JAN LYNN OWEN  
California Corporations Commissioner

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