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Deputy Commissioner
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3 DEPARTMENT OF CORPORATIONS
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE)
CALIFORNIA CORPORATIONS)
11 COMMISSIONER,)
12 Complainant,)
13)
14 v.)
15 DEPENDABLE ESCROW CO.; GEORGE)
REYES, as an individual; MARY REYES, as an)
16 individual; MICHELLE D. REYES, as an)
individual,)
17 Respondents.)

File No.: 963-0873

**ORDER BARRING GEORGE REYES
FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT OR
CONTROL OF ANY ESCROW AGENT**

20 The California Corporations Commissioner finds:

21 A. Respondent George Reyes was at all times relevant herein, the president, secretary, sole
22 shareholder, and registered agent of Dependable Escrow Co. (“Dependable Escrow”), an escrow
23 agent licensed by the California Corporations Commissioner (“Commissioner” or “Complainant”)
24 pursuant to the Escrow Law of the State of California (Fin. Code, § 17000 et seq.) (“Escrow Law”)¹.
25 Dependable Escrow has or had its principal place of business located at 2001 W. Beverly Boulevard,
26 Montebello, California 90604.

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28 ¹ Hereinafter “Code,” unless otherwise indicated.

1 B. On November 6, 2008, the Commissioner, by and through his Corporations
2 Examiner, Deborah Wong (“Wong”), commenced a regulatory examination at Dependable Escrow’s
3 licensed location. Wong examined Dependable Escrow’s most recent (September 2008) trust account
4 reconciliation and found thirteen escrows with debit balances totaling \$134,772.75. Furthermore, her
5 examination disclosed a negative trust account bank balance of \$53.89 as of September 18, 2008.
6 The Commissioner immediately ordered Dependable Escrow to replace the trust account shortage,
7 but Wong discovered other issues, such as unauthorized disbursements of trust funds, which
8 prevented her from completing her regulatory examination.

9 C. Thereafter, on May 8, 2009, Corporations Examiner Yong Hi Kristie Jaynes
10 (“Jaynes”) was assigned as the lead examiner due to the complex nature of Dependable Escrow’s
11 problems. Subsequent to Jaynes’ appointment, the Commissioner’s examination turned from a
12 regulatory exam into a special examination.

13 D. On May 27, 2009, the Commissioner determined that Dependable Escrow was
14 conducting its business in such an unsafe, injurious, and unauthorized manner so as to render further
15 operations hazardous to the public and to its customers, and that as a result thereof, Dependable
16 Escrow was unable to meet the demands of persons beneficially interested in the escrow trust
17 account, such that the Commissioner issued to Dependable Escrow an Order to Discontinue Escrow
18 Activities Pursuant to Financial Code section 17415. The Commissioner specifically found that
19 Dependable Escrow had caused shortages to exist in the trust account in excess of at least \$45,341.43,
20 in violation of Code section 17400 and California Code of Regulations, title 10², section 1738.1, had
21 deposited or otherwise disbursed trust account funds totaling at least \$12,052.75 into its general
22 and/or payroll accounts or otherwise for the payment of business operating expenses or other non-
23 trust related expenses in violation of Code sections 17409, 17414, subdivision (a)(1), and CCR
24 sections 1738 and 1738.2, and had failed to file its annual audit report for its fiscal year ended
25 December 31, 2008, in violation of Code section 17406, amongst other violations.

26 E. In light of the foregoing, on June 8, 2009, the Commissioner issued a Notice and
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28 ² Hereinafter “CCR,” unless otherwise indicated.

1 Summary of Findings Pursuant to Financial Code section 17621 and Demand for and Order Taking
2 Possession of the Trust Funds and Escrow Records of Dependable Escrow Co. Pursuant to Financial
3 Code section 17621. The orders were personally served upon Dependable Escrow on June 9, 2009,
4 and Dependable Escrow failed to appeal the Commissioner's orders within the time required.

5 F. On June 8, 2009, the Commissioner appointed Jaynes as Limited Conservator
6 ("Conservator") over Dependable Escrow's trust account(s), banking, and escrow records pursuant to
7 Code section 17630. The Commissioner personally served Dependable Escrow with the order
8 appointing Jaynes Conservator on June 9, 2009.

9 G. On June 9, 2009, pursuant to her orders, the Commissioner took possession of the
10 trust account(s) and existing escrow records of Dependable Escrow. The Conservator seized
11 approximately two hundred banker's boxes worth of escrow files, banking and accounting records
12 from Dependable Escrow's licensed premises in Montebello, California. The Conservator's
13 cataloging and review of those materials disclosed that many of Dependable Escrow's escrow files
14 had either been destroyed, partially destroyed, and/or were missing or lost. The Commissioner was
15 able to recover portions of the partial escrow files from Dependable Escrow's shredder bin.

16 H. Beginning with her appointment on June 8, 2009, the Conservator commenced the task of
17 reviewing Dependable Escrow's ledgers, trust banking records and escrow files, in an attempt to
18 reconcile the trust account(s), determine any and all trust account shortages and establish the total
19 amount of trust account liabilities. The Conservator's task was complicated by the fact that
20 Dependable Escrow's books and records were unreliable, contained falsified documents, held
21 incomplete and/or partially shredded files, and/or were missing the necessary escrow documents.

22 I. The Conservator identified a preliminary trust account shortage as of February 10, 2010,
23 of at least \$594,946.17. This meant that there were insufficient funds held in the trust account to
24 satisfy all of the outstanding trust account liabilities.

25 J. In order to recover the missing trust funds, the Conservator filed a proof of loss claim with
26 the Escrow Agents' Fidelity Corporation ("EAFC") on behalf of the trust fund claimants. The EAFC
27 is the non-profit mutual benefit corporation that indemnifies member escrow companies (independent
28 escrow agents operating within the State of California) against loss of trust obligations caused by

1 employee embezzlement and/or misappropriation. In support of her proof of loss claim, the EAFC
2 required the Conservator to document each and every instance of misappropriation, theft, or loss
3 utilizing the escrow files, banking records and other documents at her disposal. This process took the
4 Conservator approximately thirteen months to complete.

5 K. On July 28, 2010, the Conservator submitted her proof of loss claim to the EAFC
6 which totaled \$513,485.51. It should be noted that the proof of loss claim was less than the actual
7 trust shortage, as many of the escrow files, containing trust account shortages, had been destroyed or
8 were otherwise missing, such that the Conservator was unable to document those trust losses to the
9 satisfaction of the EAFC, *i.e.*, such losses were not included with the proof of loss claim.

10 L. On December 7, 2010 the Conservator and the EAFC entered into a Settlement
11 Agreement, Release, and Assignment. The EAFC agreed to settle the proof of loss claim which, in
12 the end, enabled the Conservator to pay/cover 81% of Dependable Escrow's trust fund claimants'
13 losses.

14 M. On or about January 5, 2009, Dependable Escrow created a suspense escrow³, escrow
15 number 100, to move escrow trust funds from Dependable Escrow's old computer trust accounting
16 system, "SMS," to its new trust accounting "FPS" computer system. This action transferred escrows
17 with balances and old outstanding checks, closing-out the dormant Union Bank trust account which
18 corresponded to the old "SMS" accounting system. The funds credited to Dependable Escrow
19 number 100 were originally either outstanding checks issued to authorized payees who had not yet
20 cashed their checks and/or credit balances from dormant escrows wherein the funds had not yet been
21 disbursed, possibly due to pending escrow cancellations. These escrow trust funds, held in
22 Dependable Escrow file number 100, were due for escheatment to the State Controller's Office in the
23 names of those individuals or entities who had either not cashed their checks or were parties to
24 escrow files pending cancellation. The trust funds held in suspense escrow number 100 were not
25 monies due to Dependable Escrow or its owners.

26 N. Upon further review and inspection, the Conservator's examination of Dependable
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28 ³ A "suspense escrow" is essentially a holding account for any escrow trust funds awaiting escheatment to the State
Controller's Office or disbursement to the rightful payees.

1 Escrow's books and records disclosed that George Reyes, Dependable Escrow's control person and
2 owner, had knowingly or recklessly disbursed or caused the disbursement of \$103,328.06 in trust funds
3 from Dependable Escrow suspense escrow number 100, between February and March of 2009 by
4 disbursing trust funds to himself and depositing the funds in his personal bank account, the bank
5 account belonging to G.M. Thoroughbreds, and/or Dependable Escrow's general account in violation
6 of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

7 Each of the unauthorized disbursements of trust funds described in paragraphs 1. – 6.,
8 below, also caused a shortage to exist in the trust account in violation of CCR section 1738.1.

9 Violations discovered during the special examination and the Conservator's review of
10 Dependable Escrow concerning George Reyes' activities include the following:

11 1. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

12 (a) On or about February 23, 2009, George Reyes caused an unauthorized disbursement of
13 trust account funds to be made to himself in the amount of \$3,000.00 in violation of Code section
14 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

15 (b) The unauthorized disbursement of trust funds described above in paragraph 1.(a) caused a
16 shortage of \$3,000.00 to exist in the trust account in violation of CCR section 1738.1

17 2. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

18 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
19 trust account funds to be made to himself in the amount of \$5,500.00 in violation of Code section
20 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

21 (b) The unauthorized disbursement of trust funds described above in paragraph 2.(a) caused a
22 shortage of \$5,500.00 to exist in the trust account in violation of CCR section 1738.1.

23 3. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

24 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
25 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section
26 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

27 (b) The unauthorized disbursement of trust funds described above in paragraph 3.(a) caused a
28 shortage of \$20,000.00 to exist in the trust account in violation of CCR section 1738.1

1 4. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

2 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
3 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section
4 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

5 (b) The unauthorized disbursement of trust funds described above in paragraph 4.(a) caused a
6 shortage of \$20,000.00 to exist in the trust account in violation of CCR section 1738.1

7 5. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

8 (a) On or about March 3, 2009, George Reyes caused an unauthorized disbursement of
9 trust account funds to be made to himself in the amount of \$54,828.06 in violation of Code section
10 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

11 (b) The unauthorized disbursement of trust funds described above in paragraph 5.(a) caused a
12 shortage of \$54,828.06 to exist in the trust account in violation of CCR section 1738.1

13 6. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

14 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
15 trust account funds to be made when he deposited trust funds in the amount of \$3,500.00 into
16 Dependable Escrow’s general and/or payroll account in violation of Code sections 17409, 17414,
17 subdivision (a)(1) and CCR sections 1738 and 1738.2. The commingling of trust funds is expressly
18 prohibited under Code section 17409 because of the serious risk of misuse and loss. Thereafter, the
19 wrongfully transferred funds were used to pay Dependable Escrow’s operating and/or payroll
20 expenses in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2

21 (b) The unauthorized disbursement of trust funds described above in paragraph 6.(a) caused a
22 shortage of \$3,500.00 to exist in the trust account in violation of CCR section 1738.1.

23 O. Making unauthorized disbursements of trust funds and causing trust account shortages,
24 constitute grounds under Financial Code section 17423 to bar a person from any position of
25 employment, management, or control of any escrow agent.

26 P. On April 19, 2012, the Commissioner issued a Notice of Intention to Issue Order Pursuant
27 to Financial Code section 17423 (Bar From Employment, Management or Control), Accusation, and
28 accompanying documents against George Reyes based upon the above findings, and the

1 Commissioner served George Reyes via substitute service with those documents on April 27, 2012.
2 The Complainant has not received a request for hearing from George Reyes and the time to request a
3 hearing on the Commissioner's Notice of Intention/Accusation expired on May 22, 2012.

4 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent
5 George Reyes is barred from any position of employment, management, or control of any escrow
6 agent.

7 DATED: May 23, 2012
8 Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

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10
11 By _____
12 Alan S. Weinger
13 Deputy Commissioner
14 Enforcement Division
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