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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) File No.: 963-0873
CALIFORNIA CORPORATIONS)
11 COMMISSIONER,)
12 Complainant,) **ACCUSATION**
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.)
18)
19)

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

22 **I.**
23 **INTRODUCTION**

24 Respondent Dependable Escrow Co. ("Dependable Escrow") is an escrow agent licensed by
25 the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the
26 Escrow Law of the State of California (Fin. Code, § 17000 et seq.¹) ("Escrow Law"). Dependable

27 _____
28 ¹ Hereinafter "Code," unless otherwise indicated.

1 Escrow received its escrow agent's license from the Commissioner on December 8, 1980.

2 Dependable Escrow is a suspended California corporation with its principal place of business
3 located at 2001 W. Beverly Boulevard, Montebello, California.

4 George Reyes is Dependable Escrow's president, secretary, sole shareholder, and registered
5 agent. Mary Reyes, George Reyes' spouse, is Dependable Escrow's senior escrow officer. Michelle
6 D. Reyes ("Michelle Reyes"), George and Mary Reyes' daughter, is Dependable Escrow's manager
7 and escrow officer.

8 GM Thoroughbreds, Inc. is a suspended California corporation owned and controlled by
9 George Reyes.

10 The Commissioner now seeks to revoke the escrow agent's license issued to Dependable
11 Escrow and to bar George Reyes, Mary Reyes, and Michelle Reyes from any employment,
12 management or control of any escrow agent for violations of the Escrow Law, as set forth more fully
13 below.

14 II.

15 FACTUAL BACKGROUND

16 On or about November 6, 2008, the Commissioner, by and through his Corporations
17 Examiner, Deborah Wong ("Wong"), commenced a regulatory examination at Dependable Escrow's
18 licensed location. Wong examined Dependable Escrow's most recent (September 2008) trust account
19 reconciliation and found thirteen escrows with debit balances totaling \$134,772.75. Furthermore, her
20 examination disclosed a negative trust account bank balance of \$53.89 as of September 18, 2008.
21 The Commissioner immediately ordered Dependable Escrow to replace the trust account shortage,
22 but Wong discovered other issues, such as unauthorized disbursements of trust funds, which
23 prevented her from completing her regulatory examination.

24 Thereafter, on or about May 8, 2009, Corporations Examiner Yong Hi Kristie Jaynes
25 ("Jaynes") was assigned as the lead examiner due to the complex nature of Dependable Escrow's
26 problems. Subsequent to Jaynes' appointment, the Commissioner's examination turned from a
27 regulatory exam into a special examination.

28 On or about May 27, 2009, the Commissioner determined that Dependable Escrow was

1 conducting its business in such an unsafe, injurious, and unauthorized manner so as to render further
2 operations hazardous to the public and to its customers, and that as a result thereof, Dependable
3 Escrow was unable to meet the demands of persons beneficially interested in the escrow trust
4 account, such that the Commissioner issued an Order to Discontinue Escrow Activities Pursuant to
5 Financial Code section 17415 to Dependable Escrow. Specifically, the Commissioner found that
6 Dependable Escrow had caused shortages to exist in the trust account in excess of at least \$45,341.43,
7 in violation of Code section 17400 and California Code of Regulations, title 10², section 1738.1,
8 deposited or otherwise disbursed trust account funds totaling at least \$12,052.75 into its general
9 and/or payroll accounts or otherwise for the payment of business operating expenses or other non-
10 trust related expenses in violation of Code sections 17409, 17414, subdivision (a)(1), and CCR
11 sections 1738 and 1738.2, and failed to file its annual audit report for its fiscal year ended December
12 31, 2008, in violation of Code section 17406, amongst other violations.

13 In light of the foregoing, on June 8, 2009, the Commissioner issued a Notice and Summary of
14 Findings Pursuant to Financial Code section 17621 and Demand for and Order Taking Possession of
15 the Trust Funds and Escrow Records of Dependable Escrow Co. Pursuant to Financial Code section
16 17621. The orders were personally served upon Dependable Escrow on June 9, 2009, and
17 Dependable Escrow failed to appeal the Commissioner's orders within the time required.

18 On June 8, 2009, the Commissioner appointed Jaynes as Limited Conservator ("Conservator")
19 over Dependable Escrow's trust account(s), banking, and escrow records pursuant to Code section
20 17630. The Commissioner personally served Dependable Escrow with the order appointing Jaynes
21 Conservator on June 9, 2009.

22 On or about June 9, 2009, pursuant to her orders, the Commissioner took possession of the
23 trust account(s) and existing escrow records of Dependable Escrow. The Conservator seized
24 approximately 200 banker's boxes worth of escrow files, banking and accounting records from
25 Dependable Escrow's licensed premises in Montebello, California. The Conservator's cataloging and
26 review of those materials disclosed that many of Dependable Escrow's escrow files had either been
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28 ² Hereinafter "CCR," unless otherwise indicated.

1 destroyed, partially destroyed, and/or were missing or lost. The Commissioner was able to recover
2 portions of the partial escrow files from Dependable Escrow's shredder bin.

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

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

12 In order to recover the missing trust funds, the Conservator filed a proof of loss claim with the
13 Escrow Agents' Fidelity Corporation ("EAFC") on behalf of the trust fund claimants. The EAFC is
14 the non-profit mutual benefit corporation that indemnifies member escrow companies (independent
15 escrow agents operating within the State of California) against loss of trust obligations caused by
16 employee embezzlement and/or misappropriation. (See Code section 17304 [defining trust loss for
17 purposes of the Escrow Law].) In support of her proof of loss claim, the EAFC required the
18 Conservator to document each and every instance of misappropriation, theft, or loss utilizing the
19 escrow files, banking records and other documents at her disposal. This process took the Conservator
20 approximately thirteen months to complete.

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

26 On or about December 7, 2010 the Conservator and the EAFC entered into a Settlement
27 Agreement, Release, and Assignment. The EAFC agreed to settle the proof of loss claim which, in
28 the end, enabled the Conservator to pay/cover 81% of Dependable Escrow's trust fund claimants'

1 losses.

2 **III.**

3 **GEORGE REYES SHOULD BE BARRED FROM EMPLOYMENT, MANAGEMENT OR**
4 **CONTROL OF ANY ESCROW AGENT FOR VIOLATIONS OF THE ESCROW LAW**

5 On or about January 5, 2009, Dependable Escrow created a suspense escrow³, escrow number
6 100, to move escrow trust funds from Dependable Escrow's old computer trust accounting system,
7 "SMS," to its new trust accounting "FPS" computer system. This action transferred escrows with
8 balances and old outstanding checks, closing-out the dormant Union Bank trust account which
9 corresponded to the old "SMS" accounting system.

10 The funds credited to Dependable Escrow number 100 were originally either outstanding
11 checks issued to authorized payees who had not yet cashed their checks and/or credit balances from
12 dormant escrows wherein the funds had not yet been disbursed, possibly due to pending escrow
13 cancellations. These escrow trust funds, held in Dependable Escrow file number 100, were due for
14 escheatment to the State Controller's Office in the names of those individuals or entities who had
15 either not cashed their checks or were parties to files pending cancellation. The trust funds held in
16 suspense escrow number 100 were not monies that were due to Dependable Escrow or its owners.

17 Upon further review and inspection, the Conservator's examination of Dependable Escrow's
18 books and records disclosed that George Reyes, Dependable Escrow's control person, had knowingly
19 or recklessly disbursed or caused the disbursement of \$103,328.06 in trust funds from Dependable
20 Escrow suspense escrow number 100, between February and March of 2009 by disbursing trust funds
21 to himself and depositing the funds in his personal bank account, the bank account belonging to G.M.
22 Thoroughbreds, and/or Dependable Escrow's general account in violation of Code section 17414,
23 subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

26 Violations discovered during the special examination and the Conservator's review of
27

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 Dependable Escrow concerning George Reyes' activities include the following:

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

3 (a) On or about February 23, 2009, George Reyes caused an unauthorized disbursement of
4 trust account funds to be made to himself in the amount of \$3,000.00 in violation of Code section
5 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

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

9 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
10 trust account funds to be made to himself in the amount of \$5,500.00 in violation of Code section
11 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

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

15 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
16 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section
17 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

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

21 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of
22 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section
23 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

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

27 (a) On or about March 3, 2009, George Reyes caused an unauthorized disbursement of
28 trust account funds to be made to himself in the amount of \$54,828.06 in violation of Code section

1 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

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

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

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

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

14 **IV.**

15 **MARY REYES SHOULD BE BARRED FROM EMPLOYMENT OF ANY ESCROW AGENT**
16 **FOR VIOLATIONS OF THE ESCROW LAW**

17 Upon further review and inspection, the Conservator’s examination of Dependable Escrow’s
18 books and records disclosed that Mary Reyes, Dependable Escrow’s senior escrow officer, had
19 knowingly or recklessly disbursed or caused the disbursement of \$2,589.00 in trust funds in or about
20 April 2008 in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

21 In at least one instance, a Dependable Escrow trust check, purportedly made payable to a
22 party in the escrow transaction, was cashed at Garfield Liquor Store, a liquor store/check cashing
23 facility located at 2433 W. Whittier Boulevard, Montebello, California 90640, approximately one
24 mile from Dependable Escrow’s licensed location. When a copy of the trust check was shown to the
25 escrow principal, the escrow principal stated that he had never received the check, had never
26 endorsed the check, and had never received the trust proceeds by cashing his trust check at the
27 Garfield Liquor Store.

28 Mary Reyes’ signature appears on the face of the check cashed at the Garfield Liquor Store

1 and she was the escrow officer assigned to handle the escrow from which the trust check was issued.

2 Mary Reyes is presently barred from any management or control of any escrow agent for
3 having previously made unauthorized disbursements of trust account funds in violation of Code
4 section 17414, subdivisions (a)(1) and (a)(2) and CCR sections 1738 and 1738.2, as discussed more
5 fully at paragraph 31., below. Mary Reyes was also previously ordered suspended from any
6 employment, management or control of any escrow agent for a period of thirty days for violations of
7 the Escrow Law, as discussed more fully at paragraph 32., below.

8 The unauthorized disbursement of trust funds described in paragraph 7., below, also caused a
9 shortage to exist in the trust account in violation of CCR section 1738.1.

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

12 7. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5701182

13 (a) On or about April 15, 2008, Mary Reyes caused an unauthorized disbursement of trust
14 account funds to be made in the amount of \$2,589.00 in violation of Code section 17414, subdivision
15 (a)(1) and CCR sections 1738 and 1738.2.

16 (b) The unauthorized disbursement of trust funds described above in paragraph 7.(a) caused a
17 shortage of \$2,589.00 in violation of CCR section 1738.1.

18 **V.**

19 **MICHELLE D. REYES SHOULD BE BARRED FROM EMPLOYMENT, MANAGEMENT**
20 **OR CONTROL OF ANY ESCROW AGENT FOR VIOLATIONS OF THE ESCROW LAW**

21 Upon further review and inspection, the Conservator's examination of Dependable Escrow's
22 books and records disclosed that Michelle D. Reyes, Dependable Escrow's manager and escrow
23 officer, had knowingly or recklessly disbursed or caused the disbursal of \$153,343.72 in trust funds
24 during the period June 2007 to December 2008 in violation of Code section 17414, subdivision (a)(1)
25 and CCR sections 1738 and 1738.2. In at least four instances, Dependable Escrow trust checks,
26 purportedly made payable to the parties in the escrow transactions, were cashed at Garfield Liquor
27 Store, a liquor store/check cashing facility located at 2433 W. Whittier Boulevard, Montebello,
28 California 90640, approximately one mile from Dependable Escrow's licensed location. When

1 copies of the trust checks were shown to the escrow principals, the escrow principals stated that they
2 had never received the checks, had never endorsed the checks, and had never received the trust
3 proceeds by cashing their trust checks at the Garfield Liquor Store. In one such example, the escrow
4 principal had allegedly received and cashed his escrow refund check at Garfield Liquor Store
5 approximately one year after his death.

6 Michelle Reyes' signature appears on the face of each the checks cashed at the Garfield
7 Liquor Store and she was the escrow officer assigned to handle the escrows from which each of the
8 trust checks were issued.

9 In addition to the unauthorized disbursements of trust funds, the Commissioner discovered
10 that Michelle D. Reyes had taken unearned escrow fees, prior to the close of escrow in violation of
11 Code section 17421; taken unauthorized notary fees in excess of those authorized in violation of
12 Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2; engaged in lapping⁴
13 activities in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2;
14 failed to follow escrow instructions by failing to pay the home owner's warranty insurance as
15 instructed in violation of CCR 1738.2, resulting in the cancellation of the homeowner's warranty
16 insurance policy; deposited trust funds into Dependable Escrow's general and/or payroll account by
17 incorrectly posting escrow receipts to the general account in violation of Code section 17409 and
18 1738.1; and failed to correctly prepare the statement of account in at least one escrow transaction in
19 violation of CCR section 1741.3 (the escrow file contained at least six different versions of the HUD-
20 1 closing statement).

21 The unauthorized disbursements of trust funds described below also caused a shortage to exist
22 in the trust account in violation of CCR section 1738.1.

23 Violations discovered during the special examination and the Conservator's review of
24 Dependable Escrow concerning Michelle D. Reyes' activities include the following:

25 _____
26 ⁴ Lapping violations concern escrow transactions wherein one escrow file contains a shortage, *i.e.*, there are insufficient
27 funds held in the escrow file to cover the disbursements from that escrow in accordance with the parties' instructions,
28 such that the escrow agent disburses funds from another, unrelated escrow to cover the shortage. The process continues
until there are insufficient funds to pay all remaining authorized disbursements. Lapping can be compared to a Ponzi
scheme. Lapping transactions constitute violations of Code sections 17414, subdivision (a)(1) and CCR sections 1738
and 1738.2 of the Escrow Law.

1 8. Unauthorized Disbursement of Trust Account Funds – Escrow Number 513194

2 (a) On or about June 12, 2007, Michelle D. Reyes caused an unauthorized disbursement of
3 trust account funds to be made in the amount of \$2,258.00 in violation of Code section 17414,
4 subdivision (a)(1) and CCR sections 1738 and 1738.2.

5 (b) The unauthorized disbursement of the trust funds described above in paragraph 8.(a)
6 caused a shortage of \$2,258.00 to exist in the trust account in violation of CCR section 1738.1.

7 9. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

8 (a) On or about April 1, 2009, Michelle D. Reyes caused an unauthorized disbursement of
9 trust account funds to be made in the amount of \$150.00 in violation of Code section 17414,
10 subdivision (a)(1) and CCR sections 1738 and 1738.2. The parties to the escrow had authorized
11 Michelle D. Reyes to receive \$150.00 in notary fees per the escrow instructions; however, Reyes
12 disbursed \$300.00 in notary fees to herself, \$150.00 in excess of those fees authorized by the escrow
13 principals.

14 (b) The unauthorized disbursement of trust funds described above in paragraph 9.(a) caused a
15 shortage of \$150.00 to exist in the trust account in violation of CCR section 1738.1.

16 10. Failure to Correctly Prepare Statement of Account – Escrow Numbers 5801405 and
17 5901437

18 The Conservator’s review of escrow file number 5801405 and 5901437 (both files
19 concerned the same transaction or property) disclosed that Michelle D. Reyes had prepared at least
20 six different versions of the statement of account or HUD-1 for these escrows in violation of CCR
21 section 1741.3. All of the statements of account were improperly prepared by Michelle D. Reyes,
22 including failing to balance the HUD-1 and failing to provide the seller in the escrow with her final
23 HUD-1 in violation of the Escrow Law.

24 11. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

25 (a) On or about April 2, 2009, Michelle D. Reyes caused an unauthorized disbursement of
26 trust account funds to be made in the amount of \$3,846.27 in violation of Code section 17414,
27 subdivision (a)(1) and CCR sections 1738 and 1738.2. The unauthorized disbursement of trust
28 account funds in Dependable Escrow number 5801405 was part of a lapping transaction in which title

1 charges due to be paid to Fidelity National Title Company in Dependable Escrow file number
2 5801399 were paid out of escrow file number 5801405 rather than from escrow number 5801399
3 which resulted in the unauthorized disbursement of trust account funds.

4 (b) The unauthorized disbursement of trust funds described above in paragraph 11.(a) caused
5 a shortage of \$3,846.27 to exist in the trust account in violation of CCR section 1738.1.

6 12. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

7 (a) On or about November 19, 2008, Michelle D. Reyes caused an unauthorized
8 disbursement of trust account funds to be made in the amount of \$80,000.00 in violation of Code
9 section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

10 (b) The unauthorized disbursement of the trust funds described above in paragraph 12.(a)
11 caused a shortage of \$80,000.00 to exist in the trust account in violation of CCR section 1738.1.

12 13. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

13 (a) On or about December 29, 2009, Michelle D. Reyes caused an unauthorized
14 disbursement of trust account funds to be made in the amount of \$54,000.00 in violation of Code
15 section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

16 (b) The unauthorized disbursement of trust funds described above in paragraph 13.(a) caused
17 a shortage of \$54,000.00 to exist in the trust account in violation of CCR section 1738.1.

18 14. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

19 (a) On or about October 10, 2008, Michelle D. Reyes caused an unauthorized disbursement
20 of trust account funds to be made in the amount of \$1,755.50 in violation of Code section 17414,
21 subdivision (a)(1) and CCR sections 1738 and 1738.2.

22 (b) The unauthorized disbursement of trust funds described above in paragraph 14.(a) caused
23 a shortage of \$1,755.50 to exist in the trust account in violation of CCR section 1738.1.

24 15. Early Disbursement of Escrow Fees – Escrow Number 5801393

25 (a) On or about October 9, 2008, Michelle D. Reyes caused the early disbursement of escrow
26 fees in the amount of \$2,525.00 prior to the close of escrow in violation of Code section 17421.
27 Escrow fees are only earned by an escrow agent upon the closing of an escrow, therefore, escrow
28 agents are not permitted to disburse fees early.

1 16. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

2 (a) On or about October 3, 2008, Michelle D. Reyes caused an unauthorized disbursement of
3 trust account funds to be made in the amount of \$1,500.00 in violation of Code section 17414,
4 subdivision (a)(1) and CCR sections 1738 and 1738.2.

5 (b) The unauthorized disbursement of trust funds described above in paragraph 16.(a) caused
6 a shortage of \$1,500.00 to exist in the trust account in violation of CCR section 1738.1.

7 17. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

8 (a) On or about October 7, 2008, Michelle D. Reyes caused an unauthorized disbursement of
9 trust account funds to be made in the amount of \$1,777.47 in violation of Code section 17414,
10 subdivision (a)(1) and CCR sections 1738 and 1738.2.

11 (b) The unauthorized disbursement of trust funds described above in paragraph 17.(a) caused
12 a shortage of \$1,777.47 to exist in the trust account in violation of CCR section 1738.1.

13 18. Failure to Follow Escrow Instructions – Escrow Number 5801388

14 (a) On or about January 9, 2009, Michelle D. Reyes failed to follow escrow instructions in
15 violation of CCR section 1738.2. Michelle D. Reyes issued trust check number 207720 in the
16 amount of \$500.00 from Dependable Escrow file number 5801388 on January 9, 2009, some three
17 months after the escrow had closed (all disbursements in the escrow should have been made at or
18 before escrow had closed). Check number 207720 was discovered in the escrow file having never
19 been mailed to the Home Warranty of America Insurance Company. Michelle D. Reyes' failure to
20 follow the parties' escrow instructions resulted in the cancellation of the homeowner's warranty
21 insurance policy, such that when the homeowner sought to file a claim with her insurer for repairs,
22 the insurer denied her claim.

23 19. Early Disbursement of Escrow Fees – Escrow Number 5801388

24 (a) On or about September 10, 2008, Michelle D. Reyes caused the early disbursement of
25 escrow fees in the amount of \$3,000.00 prior to the close of escrow in violation of Code section
26 17421. Escrow fees are only earned by an escrow agent upon the closing of an escrow, therefore,
27 escrow agents are not permitted to disburse fees early.

28 ///

1 22. Unauthorized Disbursement of Trust Account Funds

2 In addition to those unauthorized disbursements of trust account funds described above,
3 Dependable Escrow engaged in a check cashing scheme which caused the unauthorized disbursement
4 of trust account funds totaling at least \$148,425.37 in violation of Code section 17414, subdivision
5 (a)(1) and CCR sections 1738 and 1738.2 .

6 The Conservator determined, on the basis of her review of Dependable Escrow's books and
7 records, that at least one hundred fourteen Dependable Escrow trust checks, purportedly made
8 payable to escrow principals, were cashed at the Garfield Liquor Store during the period October
9 2006 to May 2009. A sampling of said checks disclosed that the escrow parties neither endorsed the
10 trust checks nor received their trust check proceeds. Each of the unauthorized disbursements caused
11 shortages to occur in the trust account in violation of CCR section 1738.1.

12 Samplings of five of the unauthorized disbursements caused by Dependable Escrow are described
13 as follows.

14 (a) On or about January 15, 2008, Dependable Escrow caused the unauthorized disbursement
15 of trust account funds in the amount of \$619.52 from Dependable Escrow file number 5701187, in
16 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The
17 unauthorized disbursement of the trust funds caused a shortage of \$619.52 to exist in the trust account
18 in violation of CCR section 1738.1.

19 (b) On or about November 19, 2007, Dependable Escrow caused the unauthorized
20 disbursement of trust account funds in the amount of \$1,875.57 from Dependable Escrow file number
21 5701213, in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.
22 The unauthorized disbursement of the trust funds caused a shortage of \$1,875.57 to exist in the trust
23 account in violation of CCR section 1738.1.

24 (c) On or about April 18, 2008, Dependable Escrow caused the unauthorized disbursement of
25 trust account funds in the amount of \$626.71 from Dependable Escrow file number 5801348, in
26 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The
27 unauthorized disbursement of trust funds caused a shortage of \$626.71 to exist in the trust account in
28 violation of CCR section 1738.1.

1 (d) On or about August 22, 2008, Dependable Escrow caused the unauthorized disbursement
2 of \$1,125.00 from Dependable Escrow file number 5801362, in violation of Code section 17414,
3 subdivision (a)(1) and CCR sections 1738 and 1738.2. The unauthorized disbursement of trust funds
4 caused a shortage of \$1,125.00 to exist in the trust account in violation of CCR section 1738.1.

5 (e) On or about August 29, 2008, Dependable Escrow caused the unauthorized disbursement
6 of trust account funds in the amount of \$2,719.58 from Dependable Escrow file number 5801362, in
7 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The
8 unauthorized disbursement of trust funds caused a shortage of \$2,719.58 to exist in the trust account
9 in violation of CCR section 1738.1.

10 23. Falsification of Escrow Records

11 In connection with the unauthorized disbursements set forth above, Dependable Escrow falsified
12 escrow records in violation Code sections 17414, subdivision (a)(2).

13 24. Trust Account Shortage

14 As stated previously in section II., above, the Conservator identified a preliminary trust
15 account shortage as of February 10, 2010, of at least \$594,946.17 in violation of CCR section 1738.1.
16 This meant that there were insufficient funds held in the trust account to satisfy all of the outstanding
17 trust account liabilities.

18 In order to recover the loss of trust obligations caused by Dependable Escrow's principals,
19 employees, and escrow manager, on or about July 28, 2010, the Conservator submitted her proof of
20 loss claim to the EAFC. The Conservator's proof of loss totaled \$513,485.51.

21 On or about December 7, 2010 the Conservator and the EAFC entered into a Settlement
22 Agreement, Release, and Assignment. The EAFC agreed to settle the proof of loss claim submitted
23 by the Conservator which, in the end, enabled the Conservator to pay/cover 81% of Dependable
24 Escrow's trust fund claimants' trust losses.

25 25. Late Filed Annual Audit Report

26 Pursuant to Code section 17406, all licensees under the Escrow Law are required to file an
27 annual audit report containing audited financial statements ("annual audit report") within one hundred
28 five days after the close of their fiscal year. Dependable Escrow's fiscal year-end is December 31st.

1 Accordingly, Dependable Escrow was required to file its audit report for the fiscal year ended
2 December 31, 2007 on or before April 15, 2008.

3 On or about April 14, 2008, Dependable Escrow's principal wrote to the Commissioner's
4 special administrator, requesting a filing extension for its annual audit report. On or about April 15,
5 2008, the Commissioner's special administrator granted Dependable Escrow a two-week filing
6 extension. Accordingly, Dependable Escrow had until April 30, 2008 to file its annual audit report
7 for the fiscal year ended December 31, 2007. The Commissioner's special administrator specifically
8 warned Dependable Escrow in writing, that should it fail to file its annual audit report by the April
9 30th date, penalties would accrue from the original filing deadline of April 15, 2008.

10 Dependable Escrow failed to file its annual audit report by April 30, 2008.

11 Finally on or about May 7, 2008, the Commissioner again notified Dependable Escrow in
12 writing of the due date of its 2007 annual audit report and the possibility of the imposition of fines if
13 the report was filed late. On or about October 15, 2008, the Commissioner received Dependable
14 Escrow's 2007 annual audit report. Dependable Escrow's 2007 annual audit report was filed with the
15 Commissioner one hundred eighty-two days late in violation of Code section 17406 and is also an
16 independent ground to revoke Dependable Escrow's license pursuant to Code section 17602.5.

17 26. Failure to Submit Annual Audit Report

18 Dependable Escrow was required to file its annual audit report for the fiscal year ended
19 December 31, 2008, on or before April 15, 2009.

20 Dependable Escrow never filed its 2008 annual audit report in violation of Code section
21 17406 and is also an independent ground to revoke Dependable Escrow's license pursuant Code
22 section 17602.5.

23 27. Failure to Reconcile Trust Account

24 Based upon the examiner's special examination and the Conservator's review of Dependable
25 Escrow's books and records, Dependable Escrow had not completed its trust account bank
26 reconciliations since at least January 31, 2009 through June 8, 2009, in violation of Code section
27 17404 and CCR section 1732.2.

28 ///

1 28. Liquidity Deficiencies

2 Pursuant to Code section 17210, all licensees under the Escrow Law are required to maintain,
3 at all times, a tangible net worth of at least \$50,000.00, including liquid assets of at least \$25,000.00
4 in excess of current liabilities. As of December 31, 2007, Dependable Escrow had a liquidity
5 deficiency of \$21,290.00 and a tangible net worth deficiency of \$4,830.00 in violation of Code
6 section 17210. As of December 31, 2008, Dependable Escrow's liquidity deficiency had increased to
7 \$124,009.00 and its tangible net worth deficiency to \$36,334.00 in violation of Code section 17210.
8 These deficiencies were calculated on the basis of a preliminary compilation of financial reports
9 provided to the Conservator by Michael Haas, Dependable Escrow's certified public accountant.

10 29. Failure to Maintain Books and Records

11 CCR section 1737.3 requires escrow agents to maintain their books and records for a period
12 of at least five years from the close of escrow. As stated previously in section II., above, in many
13 instances Dependable Escrow had either lost or destroyed escrow files in violation of CCR 1737.3 by
14 failing to maintain such records for a period of at least five years from the close of escrow.

15 30. Failure to Respond to Commissioner's Inspection Demand

16 In connection with the special examination, Dependable had refused to submit its books,
17 papers and affairs to the Commissioner for inspection in violation of Code section 17405 and CCR
18 section 1730.

19 On or about May 15, 2009, the Commissioner wrote to Michelle D. Reyes requesting access
20 to Dependable Escrow's licensed premises in order to inspect its books and records on May 18, 2009,
21 commencing at the hour of 10:00 a.m. Later that same day, Michelle D. Reyes telephoned the
22 Complainant, stating that she was unavailable to meet with the examiner during the scheduled date
23 and time. The Complainant responded to Michelle D. Reyes, stating that other principals and/or
24 officers employed by Dependable Escrow could be made available to meet with the examiner on the
25 designated day. Accordingly, on May 18, 2009, the Commissioner's examiner arrived at Dependable
26 Escrow's licensed premises to conduct the scheduled examination; however, the business was closed
27 and the Commissioner was unable to gain access to the needed books and records held at Dependable
28 Escrow's business premises.

1 Agreement.

2 32. Mary Reyes Previously Suspended from Employment of Any Escrow Agent

3 On or about August 1, 2000, the Commissioner commenced a second disciplinary action
4 against Mary Reyes. The Commissioner sought to bar Mary Reyes from any position of
5 employment, management or control of any escrow agent for violations of Code sections 17414,
6 subdivision (a)(1) and 17414, subdivision (a)(2) and CCR sections 1738 and 1738.2. The
7 Commissioner alleged that Mary Reyes had closed an escrow without having first received the cash
8 deposit and other funds required from the buyers by the escrow instructions, including the lenders
9 instructions. On or about March 5, 2001, Administrative Law Judge H. Stuart Waxman issued his
10 proposed decision in which he found that Mary Reyes, while employed as an escrow agent at
11 Dependable Escrow, had failed to submit amended escrow instructions to the lender in violation of
12 Code sections 17414, subdivisions (a)(1) and (a)(2) and CCR sections 1738 and 1738.2, such that
13 Mary Reyes was ordered suspended from any employment, management or control of any escrow
14 agent for a period of thirty days. The Commissioner adopted ALJ Waxman's decision effective
15 March 23, 2001. Exhibit B – a true and correct copy of the Adopted Decision.

16 **VIII.**

17 **DEPENDABLE ESCROW PREVIOUSLY SANCTIONED FOR VIOLATIONS OF THE**
18 **ESCROW LAW**

19 Dependable Escrow has a history of suspensions, fines, and other violations of the Escrow
20 Law, as set forth more fully below.

21 33. Dependable Escrow's Former Escrow Manager and Escrow Officer Barred

22 On or about June 16, 2006, the Commissioner issued a final order pursuant to Code section
23 17423, barring Linda J. Chavez ("Chavez"), Dependable Escrow's former escrow manager and
24 officer, for making unauthorized disbursements in at least nine escrow transactions totaling
25 \$481,018.84 between May 2004 and January 2005 in violation of Code section 17414, subdivision
26 (a)(1) and CCR sections 1738 and 1738.2. A special examination of Dependable Escrow's books and
27 records revealed that Chavez had made numerous posting adjustments to the escrow ledgers in an
28 attempt to cover up the unauthorized disbursements in violation of Code section 17414 subdivision

1 (a)(2). The unauthorized disbursements of trust funds caused a shortage to exist in the trust account
2 in the amount of at least \$481,018.84 in violation of CCR section 1738.1. Dependable Escrow later
3 purportedly cured the \$481,018.84 trust account shortages created as a result of Chavez's
4 unauthorized conduct. Exhibit C – a true and correct copy of the Final Order Barring Chavez.

5 34. Dependable Escrow Suspended for Failing to Report Unauthorized Disbursements

6 On February 26, 2007, the Commissioner ordered Dependable Escrow undergo a seven-day
7 suspension pursuant to Code section 17609 as set forth in the Settlement Agreement *In the Matter of*
8 *the Accusation of the Commissioner of Corporations of the State of California v. Dependable Escrow*
9 *Co.*, OAH Case Number L-2006110069. Specifically, the Commissioner found that on April 19,
10 2005, Dependable Escrow, through its certified public accountant, had filed its December 31, 2004
11 annual audit report with the Commissioner in which the CPA stated that "It was noted in reviewing
12 various files that certain disbursements were made from the trust account that appear to be personal
13 in nature . . ." The 2004 audited financial statements also contained a trial balance for the period
14 ended December 31, 2004, which disclosed a possible trust account shortage of \$261,497.45.

15 On or about April 22, 2005, the Commissioner commenced a special examination of the
16 books and records of Dependable Escrow based upon the information contained in its audited
17 financials. The escrow ledgers obtained at the commencement of the special examination included
18 activity through April 21, 2005, and disclosed thirty-five escrows with debit balances totaling
19 \$533,962.90. The End of Month Exceptions Overdraft report provided for April 30, 2005, included a
20 further \$119,918.67 in debit balances. The special examination eventually revealed that as of April
21 30, 2004, Dependable had a trust account shortage of \$832,170.22, which had been as high as
22 \$1,022,920.28. The trust account shortage had begun as early as February 2004 and continued
23 climbing into April 2005. The Commissioner believed, on the basis of documentation reviewed, that
24 Dependable Escrow had cured the trust account shortage.

25 Chavez, Dependable Escrow's former escrow manager and escrow officer, caused at least
26 \$481,018.84 of the total trust account shortage when she made unauthorized disbursements of trust
27 funds in violation of Code section 17414, subdivision (a)(1) and CCR, title 10, sections 1738 and
28 1738.2.

1 Dependable Escrow discovered the misappropriation of trust funds by Chavez on March 21,
2 2005, but never reported its discovery to the Commissioner as is required by Code section 17414,
3 subdivision (c). Instead, the Commissioner learned from the audited 2004 financial statements that
4 the trust funds had possibly been misappropriated. Code section 17414, subdivision (c), requires that
5 any person having knowledge of any abstraction or misappropriation of trust funds must immediately
6 report such findings to the Commissioner. This Dependable Escrow did not do.

7 In light of the foregoing violations of the Escrow Law, and pursuant to the parties' Settlement
8 Agreement, Dependable Escrow agreed to submit to a seven-day suspension commencing March 8,
9 2007, during which time Dependable Escrow was forbidden from accepting any new escrow business
10 pursuant to Financial Code section 17609. Exhibit D – true and correct copies of the Suspension
11 Order and Settlement Agreement.

12 35. Dependable Escrow Ordered to Pay Fines for Failing to Timely File its Annual Report

13 On October 3, 2007, the Commissioner ordered Dependable Escrow to pay penalties totaling
14 \$5,800.00 pursuant to Code section 17408 on the basis of its failure to timely file the annual audit
15 report for its fiscal year ended December 31, 2006. Dependable Escrow was fifty-eight days late in
16 filing its annual audit report for 2006. Exhibit E – a true and correct copy of the Order Imposing
17 Penalties.

18 **IX.**

19 **LAW**

20 Code section 17210 provides in pertinent parts:

- 21 (b) An escrow agent licensed prior to January 1, 1986, shall maintain
22 at all times a tangible net worth according to the following schedule:
23 . . .
24 (9) Fifty thousand dollars (\$50,000) as of July 1, 1993, and thereafter,
including liquid assets of at least twenty-five thousand dollars
(\$25,000) in excess of current liabilities.

25 Code section 17304 provides:

26 “Loss,” within the meaning of this chapter, means the loss of trust
27 obligations held by a member as a result of the fraudulent or dishonest
28 abstraction, misappropriation, or embezzlement of trust obligations by

1 an officer, director, trustee, stockholder, manager, or employee of a
2 member.

3 Code section 17400 provides:

4 The commissioner may adopt such rules as are reasonable and
5 necessary for the enforcement of this division.

6 Code section 17404 provides:

7 Every person subject to this division shall keep and use in its business,
8 books, accounts, and records which will properly enable the
9 commissioner to determine whether the escrow functions performed by
10 such person comply with the provisions of this division and with all
11 rules made by the commissioner under this division.

12 Code section 17405 provides in pertinent parts:

13 (a) The business, accounts, and records of every person performing as
14 an escrow agent, whether required to be licensed under this division or
15 not, are subject to inspection and examination by the commissioner at
16 any time without prior notice. The provisions of this section shall not
17 apply to persons specified in Section 17006.

18 (b) Any person subject to this division, shall, upon request, exhibit and
19 allow inspection and copying of any books and records by the
20 commissioner or his or her authorized representative.

21 ...

22 Code section 17406 provides in pertinent part:

23 (a) Each licensee shall submit to the commissioner, at the licensee's
24 own expense, an audit report containing audited financial statements
25 covering the calendar year or, if the licensee has an established fiscal
26 year, then for that fiscal year, within 105 days after the close of the
27 calendar or fiscal year, as applicable. At that time, each licensee shall
28 also file additional relevant information as the commissioner may
require.

...

Code section 17408 provides in pertinent parts:

(a) If any person subject to this division fails to make any report
required by law or by the commissioner, the commissioner may
immediately cause the books, records, papers, and affairs of said person
to be thoroughly examined.

1 (b) The commissioner may impose, by order, a penalty on any person
2 who fails, within the time specified in any written demand of the
3 commissioner, (1) to make and file with the commissioner any report
4 required by law or requested by the commissioner, or (2) to furnish any
5 material information required by the commissioner to be included in
6 the report. The amount of the penalty may not exceed one hundred
dollars (\$100) for each day for the first five days the report or
information is overdue, and thereafter may not exceed five hundred
dollars (\$500) for each day the report or information is overdue.

...

7 Code section 17409 provides:

8 (a) All moneys deposited in escrow to be delivered upon the close of
9 the escrow or upon any other contingency shall be deposited and
10 maintained in a noninterest-bearing demand or checking account in a
11 bank, a state or federal savings bank, or a state or federal savings
12 association or in a noninterest-bearing account subject to immediate
13 withdrawal in an industrial loan company insured by the Federal
14 Deposit Insurance Corporation and approved to receive those moneys
15 by the commissioner. Thereafter, these moneys may be deposited in an
16 interest-bearing account in a bank, a state or federal savings bank, a
17 state or federal savings association, an industrial loan company
18 approved to receive those moneys by the commissioner, or a state or
19 federal credit union, if the depositor is qualified for membership under
20 the bylaws of that credit union, and the moneys are maintained
21 separate, distinct, and apart from funds belonging to the escrow agent.
22 Those funds, when deposited, are to be designated as "trust funds,"
23 "escrow accounts," or under some other appropriate name indicating
24 that the funds are not the funds of the escrow agent.

...

19 Code section 17414 provides in pertinent parts:

20 (a) It is a violation for any person subject to this division or any
21 director, stockholder, trustee, officer, agent, or employee of any such
22 person to do any of the following:

23 (1) Knowingly or recklessly disburse or cause the disbursement of escrow
24 funds otherwise than in accordance with escrow instructions, or
25 knowingly or recklessly to direct, participate in, or aid or abet in a
26 material way, any activity which constitutes theft or fraud in connection
27 with any escrow transaction.

28 (2) Knowingly or recklessly make or cause to be made any
misstatement or omission to state a material fact, orally or in writing, in
escrow books, accounts, files, reports, exhibits, statements, or any other

1 document pertaining to an escrow or escrow affairs.

2 ...

3 (c) Any person subject to this division who knows of a person's
4 involvement in an abstraction or misappropriation of money, funds,
5 trust obligations, or property deposited with a licensed escrow agent
6 shall immediately report the abstraction or misappropriation in writing
7 to the commissioner and to Fidelity Corporation. No person shall be
8 civilly liable for reporting as required under this subdivision, unless the
9 information provided in the report is false and the person providing
10 false information does so with knowledge and malice. The reports filed
11 under this section, including the identity of the person making the
12 filing, shall remain confidential pursuant to state law.

13 Code section 17415 provides in pertinent part as follows:

14 (a) If the commissioner, as a result of any examination or from any
15 report made to him or her, shall find that any person subject to this
16 division is in an insolvent condition, is conducting escrow business in
17 such an unsafe or injurious manner as to render further operations
18 hazardous to the public or to customers, has failed to comply with the
19 provisions of Section 17212.1 or 17414.1, has permitted its tangible net
20 worth to be lower than the minimum required by law, has failed to
21 maintain its liquid assets in excess of current liabilities as set forth in
22 Section 17210, or has failed to comply with the bonding requirements
23 of Chapter 2 (commencing with Section 17200) of this division, the
24 commissioner may, by an order addressed to and served by registered
25 or certified mail or by personal service on such person and on any other
26 person having in his or her possession or control any escrowed funds,
27 trust funds or other property deposited in escrow with said person,
28 direct discontinuance of the disbursement of trust funds by the parties
or any of them, the receipt of trust funds, the delivery or recording of
documents received in escrow, or other business operations. No person
having in his or her possession any of these funds or documents shall
be liable for failure to comply with the order unless he or she has
received written notice of the order. Subject to subdivision (b), the
order shall remain in effect until set aside by the commissioner in
whole or in part, the person is the subject of an order for relief in
bankruptcy, or pursuant to Chapter 6 (commencing with Section
17621) of this division the commissioner has assumed possession of the
escrow agent.

...
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1 Code section 17421 provides:

2 Notwithstanding the provisions of Section 17420, a disbursal, other
3 than for a fee, commission or compensation may be advanced or paid
4 out prior to the close of an escrow if the written instructions of all
5 parties to the transaction so provide.

6 Code section 17602.5 provides in pertinent part as follows:

7 If any licensed escrow agent fails to make any reports required by law
8 or by the commissioner within ten (10) days from the date designated
9 for the making of the reports, or within any extension of time granted
10 by the commissioner, . . . such failure shall constitute grounds for the
11 suspension or revocation of the license held by such escrow agent.

12 Code section 17609 provides:

13 The revocation, suspension, surrender or expiration of an escrow
14 agent's license does not impair or affect pre-existing escrows lawfully
15 contracted, but nothing contained in this division shall be deemed to
16 authorize the acceptance of further funds or documents into escrow
17 subsequent to such revocation, surrender or expiration or during any
18 period of suspension.

19 Code section 17621 provides:

20 Whenever it appears to the commissioner that any escrow agent subject
21 to this division:

- 22 (a) Is in an insolvent condition;
- 23 (b) Is conducting escrow business in an unsafe or unauthorized
24 manner;
- 25 (c) Has violated its charter or any law of the State of California;
- 26 (d) Refuses to submit its books, papers and affairs to the inspection of
27 any examiner;
- 28 (e) Neglects or refuses to observe any order of the commissioner made
pursuant to the provisions of this division, within the time specified
therein, unless the enforcement of such order is restrained in a
proceeding brought by the escrow agent;
- (f) Any officer, director, or trustee of such escrow agent refuses to be

1 examined upon oath touching the business of such escrow agent;

2 (g) Any officer, director, stockholder, or trustee of such escrow agent,
3 or attorney in fact of such escrow agent has embezzled, sequestered, or
4 willfully diverted the assets or trust funds of such escrow agent;

5 (h) Has permitted its tangible net worth to be lower than the minimum
6 required by law;

7 (i) Has failed to comply with the bonding requirements of Chapter 2
8 of this division the commissioner shall dispatch a written notice and
9 summary of findings, as referred to in Section 17415, to the principal
10 officer of the escrow agent involved or to its manager of record; and
11 such escrow agent shall be afforded a reasonable opportunity to comply
12 or otherwise effect such remedies as the commissioner may deem
13 acceptable. However, should the escrow agent so notified fail to
14 comply within five days of receipt of the notice, or as soon as it appears
15 to the commissioner that no compliance is possible, or in the event
16 prompt delivery of the prescribed written notice is impossible, the
17 commissioner may forthwith take possession of the property and
18 business of such escrow agent and retain possession until such escrow
19 agent resumes business or its affairs be finally liquidated as provided in
20 this chapter. The escrow agent, with the consent of the commissioner,
21 may resume business upon such conditions as the commissioner may
22 prescribe.

23 Code section 17630 provides:

24 If any facts occur which would entitle the commissioner under Section
25 17621 to take possession of the property, business and assets of a
26 licensee the commissioner may appoint a conservator of a licensee and
27 require of him such bond as the commissioner deems proper. The
28 commissioner may also, upon the request of the board of directors of a
licensee, appoint a conservator of such licensee and require of him such
bond as the commissioner deems proper. The conservator, under the
direction of the commissioner, shall take possession of the property,
business and assets of the licensee and take such action as he may deem
necessary to conserve the assets of such licensee pending further
disposition of its business. The conservator shall retain such possession
until the property, business and assets of the licensee are returned to the
licensee or until further order of the commissioner.

CCR section 1730 provides:

(a) An escrow agent who is engaged in the business of receiving

1 escrows specified in subdivision (c) of Section 17312 of the Financial
2 Code and is required to be a member of Escrow Agents' Fidelity
3 Corporation shall have its business offices located in the State of
4 California and shall maintain its books, records and accounts in the
5 State of California. An escrow agent who is not engaged in the business
6 of receiving escrows specified in subdivision (c) of Section 17312 of
7 the Financial Code and is not required to be a member of Escrow
8 Agents' Fidelity Corporation shall maintain its books, records and
9 accounts in the State of California or in the state the escrow agent is
10 located in.

11 (b) An escrow agent shall notify the Commissioner in writing of the
12 location of its books, records and accounts. Such books, records and
13 accounts shall be maintained at such location unless the escrow agent
14 notifies the Commissioner in writing at least 15 days prior to changing
15 the location of such books.

16 CCR section 1732.2 provides in pertinent parts:

17 (a) An escrow agent shall establish and maintain currently the
18 following books with reference to its escrow accounts:

- 19 (1) Escrow ledger containing a separate ledger sheet for each escrow;
- 20 (2) Escrow liability controlling account;
- 21 (3) Cash receipt and disbursement journal or a file containing copies of
22 all receipts and checks and/or check stubs of checks issued by the
23 escrow agent as a medium of posting to the records referred to in
24 subsections (1) and (2) in which case adding machine tapes of totals of
25 receipts and checks shall be retained. The records referred to in
26 subsections (1) and (2) shall be reconciled at least once each month
27 with the bank statements of the "trust" or "escrow" account. The
28 records referred to in subsection (1) shall be reconciled at least once
each week with the escrow liability controlling account referred to in
subsection (2).

(b) An escrow agent engaged in the business of receiving escrows for
deposit or delivery of the types of transactions specified in subdivision
(c) of Section 17312 of the Financial Code and of the types of
transactions not specified therein shall maintain separate escrow books
and separate escrow trust accounts for each type of escrow business in
the same manner as provided for in subsection (a).

...

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1 CCR 1737.3 provides:

2 (a) An escrow agent shall preserve for at least five years from the close
3 of escrow:

4 (1) All bank statements of the "trust" or "escrow" account;

5 (2) All canceled checks drawn upon the "trust" or "escrow" account;

6 (3) Copies of bank deposit slips with reference to the "trust" or
7 "escrow" account;

8 (4) All additional records reflecting banking transactions with
9 reference to the "trust" or "escrow" account, including copies of all
10 receipts for funds transferred from interest-bearing accounts into the
"trust" or "escrow" account;

11 (5) The Statement of Account;

12 (6) Escrow instructions and amendments thereto;

13 (7) All additional records pertinent to the escrow transaction.

14 (b) The records referred to in paragraph (a) may be retained and
15 provided to the Commissioner in electronic format provided that:

16 (1) The electronic records are maintained and provided in a format that
17 allows the Commissioner or his or her authorized representatives
18 complete access to all of the books, accounts and records. The
19 electronic records must be provided to the Commissioner in a software
20 format that is acceptable to the Commissioner and that the
21 Commissioner has in his or her possession. The escrow agent shall
ensure that the Commissioner and his or her authorized representatives
have the ability to download and print any or all of the records that are
stored and maintained electronically.

22 (2) The escrow agent shall provide any or all of the records maintained
23 in electronic format in printed form if the electronic records are not in a
24 format that enables the Commissioner or his or her authorized
25 representatives to determine if the licensee is complying with the
Escrow Law or rules, or upon the request of the Commissioner or his or
her authorized representatives.

26 (3) The electronic records shall be maintained in a media that is (A)
27 non-erasable "write once, read many" ("WORM") that does not allow
28 changes to the stored document, (B) consistent with the minimum

1 standards of quality approved by either the National Institute of
2 Standards and Technology or the Association for Information and
3 Image Management, and (C) contain written authentication identifying
the electronic record as an exact unaltered copy of the document.

4 CCR section 1738 provides:

5 (a) All money deposited in such "trust" or "escrow" account shall be
6 withdrawn, paid out, or transferred to other accounts only in
7 accordance with the written escrow instructions of the principals to the
8 escrow transaction or the escrow instructions transmitted electronically
9 over the Internet executed by the principals to the escrow transaction or
10 pursuant to order of a court of competent jurisdiction.

11 (b) The escrow agent shall comply with, at a minimum, the following
12 procedures for wire transfers (also known as "electronic fund
13 transfers"):

14 (1) The instructions of the principals authorizing the wire transfer must
15 contain, at a minimum, the amount of the funds to be wire transferred,
16 the name of the financial institution, the account number and the
17 account name, receiving the funds.

18 (2) The escrow agent shall retain confirmation of the wire transfer
19 from the financial institution that contains, at a minimum, the amount
20 of the funds wire transferred and the account number and name of the
21 account the funds were wire transferred to.

22 (3) If necessary, the escrow books shall be properly adjusted to reflect
23 the wire transfer of funds from the escrow account.

24 (4) The escrow agent shall maintain a proper audit trail and adequate
25 controls and safeguards for funds disbursed by wire transfer.

26 CCR section 1738.1 provides:

27 An escrow agent shall not withdraw, pay out, or transfer monies from
28 any particular escrow account in excess of the amount to the credit of
such account at the time of such withdrawal, payment, or transfer.

CCR section 1738.2 provides:

An escrow agent shall use documents or other property deposited in
escrow only in accordance with the written escrow instructions of the
principals to the escrow transaction or the escrow instructions

1 transmitted electronically over the Internet executed by the principals to
2 the escrow transaction, or if not otherwise directed by written or
3 electronically executed instructions, in accordance with sound escrow
practice, or pursuant to order of a court of competent jurisdiction.

4 CCR section 1741.3 provides:

5 Upon completion of an escrow transaction an escrow agent shall render
6 to each principal to the escrow transaction a statement of his account in
7 writing. Such statement shall specify all receipts and disbursements of
8 escrow funds for his account. Charges made by the escrow agent for his
9 services, and all disbursements by the escrow agent to a broker or
10 salesman in connection with an escrow transaction shall be clearly
11 designated as such and shall be shown separately from disbursements
12 of the escrow agent. Payments outside of escrow, if shown in the
13 statement, shall be set forth separately from payments by or to the
14 escrow agent. Internet escrow agents may transmit the statement of
account electronically over the Internet to the principals to the escrow
transaction. In the event a person is not able to electronically receive
the statement of account, the Internet escrow agent shall mail a true and
correct copy of the statement of account within 24 hours of its
completion.

15 X.

16 BAR AND REVOCATION STATUTES

17 Code section 17423 provides in pertinent parts:

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

21 (1) That the censure, suspension, or bar is in the public interest and
22 that the person has committed or caused a violation of this division or
23 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.

24 . . .

25 (b) Within 15 days from the date of a notice of intention to issue an
26 order pursuant to subdivision (a), the person may request a hearing
27 under the Administrative Procedure Act (Chapter 5 (commencing with
Section 11500) of Division 3 of Title 2 of the Government Code).
28 Upon receipt of a request, the matter shall be set for hearing to

1 commence within 30 days after such receipt unless the person subject
2 to this division consents to a later date. If no hearing is requested within
3 15 days after the mailing or service of such notice and none is ordered
4 by the commissioner, the failure to request a hearing shall constitute a
5 waiver of the right to a hearing.

6 (c) Upon receipt of a notice of intention to issue an order pursuant to
7 this section, the person who is the subject of the proposed order is
8 immediately prohibited from engaging in any escrow processing
9 activities, including disbursing any trust funds in the escrow agent's
10 possession, custody or control, and the financial institution holding
11 trust fluids shall be so notified by service of the notice, accusation and
12 other administrative pleadings. The prohibition against disbursement of
13 trust funds may be set aside, in whole or in part, by the commissioner
14 for good cause.

15 Code section 17608 provides in pertinent part:

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

18 . . .

19 (b) The licensee has violated any provision of this division or any rule
20 made by the commissioner under and within the authority of this
21 division.

22 . . .

23 **XI.**

24 **CONCLUSION**

25 Complainant finds that, by reason of the foregoing, Respondent George Reyes has violated
26 Code section 17414, subdivision (a)(1) and CCR sections 1738, 1738.1, and 1738.2 and it is in the
27 best interest of the public to bar George Reyes from any position of employment, management or
28 control of any escrow agent pursuant to section 17423, subdivision (a)(1) of the Code.

Complainant also finds that, by reason of the foregoing, Respondent Mary Reyes has violated
Code section 17414, subdivision (a)(1) and CCR sections 1738, 1738.1, and 1738.2 and it is in the
best interest of the public to bar Mary Reyes from any position of employment of any escrow agent
pursuant to section 17423, subdivision (a)(1) of the Code.

Complainant also finds that, by reason of the foregoing, Respondent Michelle D. Reyes has
violated Code sections 17409, 17414, subdivision (a)(1), 17421 and CCR sections 1738, 1738.1,

1 1738.2, 1741.3 and it is in the best interest of the public to bar Michelle D. Reyes from any position
2 of employment, management or control of any escrow agent pursuant to section 17423, subdivision
3 (a)(1) of the Code.

4 Complainant further finds that, by reason of the foregoing, Respondent Dependable Escrow
5 Co. has violated Code sections 17210, 17404, 17405, 17406, 17414, subdivisions (a)(1) and (a)(2)
6 and CCR sections 1730, 1732.2, 1738, 1738.1, 1738.2. Furthermore, by and through the actions of
7 George Reyes, Mary Reyes, and Michelle D. Reyes, Dependable Escrow Co. has violated Code
8 sections 17409, 17414, subdivision (a)(1), 17421 and CCR sections 1738, 1738.1, 1738.2, 1741.3,
9 such that it is in the best interest of the public to revoke the escrow agent's license issued to
10 Dependable Escrow Co. in light of the foregoing violations of the Escrow Law.

11 WHEREFORE, IT IS PRAYED that Respondents George Reyes and Michelle D. Reyes be
12 barred from any position of employment, management or control of any escrow agent; that Mary
13 Reyes be barred from any position of employment of any escrow agent; and that the Commissioner
14 revoke the escrow agent's license issued to Dependable Escrow Co.

15 DATED: April 19, 2012
16 Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

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18
19 By _____
20 Blaine A. Noblett
21 Senior Corporations Counsel
22 Enforcement Division
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