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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.)
18)
19)

File No.: 963-0873

**ORDER BARRING MICHELLE D. REYES
FROM ANY POSITION OF
EMPLOYMENT, MANAGEMENT OR
CONTROL OF ANY ESCROW AGENT**

20 The California Corporations Commissioner finds:

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

27 B. On November 6, 2008, the Commissioner, by and through his Corporations
28 Examiner, Deborah Wong (“Wong”), commenced a regulatory examination at Dependable Escrow’s

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

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

11 D. On May 27, 2009, the Commissioner determined that Dependable Escrow was
12 conducting its business in such an unsafe, injurious, and unauthorized manner so as to render further
13 operations hazardous to the public and to its customers, and that as a result thereof, Dependable
14 Escrow was unable to meet the demands of persons beneficially interested in the escrow trust
15 account, such that the Commissioner issued to Dependable Escrow an Order to Discontinue Escrow
16 Activities Pursuant to Financial Code section 17415. The Commissioner specifically found that
17 Dependable Escrow had caused shortages to exist in the trust account in excess of at least \$45,341.43,
18 in violation of Code section 17400 and California Code of Regulations, title 10¹, section 1738.1, had
19 deposited or otherwise disbursed trust account funds totaling at least \$12,052.75 into its general
20 and/or payroll accounts or otherwise for the payment of business operating expenses or other non-
21 trust related expenses in violation of Code sections 17409, 17414, subdivision (a)(1), and CCR
22 sections 1738 and 1738.2, and had failed to file its annual audit report for its fiscal year ended
23 December 31, 2008, in violation of Code section 17406, amongst other violations.

24 E. In light of the foregoing, on June 8, 2009, the Commissioner issued a Notice and
25 Summary of Findings Pursuant to Financial Code section 17621 and Demand for and Order Taking
26 Possession of the Trust Funds and Escrow Records of Dependable Escrow Co. Pursuant to Financial
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28 ¹ Hereinafter "CCR," unless otherwise indicated.

1 Code section 17621. The orders were personally served upon Dependable Escrow on June 9, 2009,
2 and Dependable Escrow failed to appeal the Commissioner's orders within the time required.

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

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

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

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

23 J. In order to recover the missing trust funds, the Conservator filed a proof of loss claim with
24 the Escrow Agents' Fidelity Corporation ("EAFC") on behalf of the trust fund claimants. The EAFC
25 is the non-profit mutual benefit corporation that indemnifies member escrow companies (independent
26 escrow agents operating within the State of California) against loss of trust obligations caused by
27 employee embezzlement and/or misappropriation. In support of her proof of loss claim, the EAFC
28 required the Conservator to document each and every instance of misappropriation, theft, or loss

1 utilizing the escrow files, banking records and other documents at her disposal. This process took the
2 Conservator approximately thirteen months to complete.

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

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

12 M. Upon further review and inspection, the Conservator's examination of Dependable
13 Escrow's books and records disclosed that Michelle D. Reyes, Dependable Escrow's manager and
14 escrow officer, had knowingly or recklessly disbursed or caused the disbursement of \$153,343.72 in
15 trust funds during the period June 2007 to December 2008 in violation of Code section 17414,
16 subdivision (a)(1) and CCR sections 1738 and 1738.2. In at least four instances, Dependable Escrow
17 trust checks, purportedly made payable to the parties in the escrow transactions, were cashed at
18 Garfield Liquor Store, a liquor store/check cashing facility located at 2433 W. Whittier Boulevard,
19 Montebello, California 90640, approximately one mile from Dependable Escrow's licensed location.
20 When copies of the trust checks were shown to the escrow principals, the escrow principals stated
21 that they had never received the checks, had never endorsed the checks, and had never received the
22 trust proceeds by cashing their trust checks at the Garfield Liquor Store. In one such example, the
23 escrow principal had allegedly received and cashed his escrow refund check at Garfield Liquor Store
24 approximately one year after his death.

25 N. Michelle D. Reyes' signature appears on the face of each the checks cashed at the Garfield
26 Liquor Store and she was the escrow officer assigned to handle the escrows from which each of the
27 trust checks were issued.

28 O. In addition to the unauthorized disbursements of trust funds, the Commissioner discovered

1 that Michelle D. Reyes had taken unearned escrow fees, prior to the close of escrow in violation of
2 Code section 17421; taken unauthorized notary fees in excess of those authorized in violation of
3 Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2; engaged in lapping²
4 activities in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2;
5 failed to follow escrow instructions by failing to pay the homeowner's warranty insurance policy as
6 instructed in violation of CCR 1738.2, resulting in the cancellation of the insurance policy; deposited
7 trust funds into Dependable Escrow's general and/or payroll account by incorrectly posting escrow
8 receipts to the general account in violation of Code section 17409 and 1738.1; and failed to correctly
9 prepare the statement of account in at least one escrow transaction in violation of CCR section 1741.3
10 (the escrow file contained at least six different versions of the HUD-1 closing statement).

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

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

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

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

19 (b) The unauthorized disbursement of the trust funds described above in paragraph 1.(a)
20 caused a shortage of \$2,258.00 to exist in the trust account in violation of CCR section 1738.1.

21 2. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

22 (a) On April 1, 2009, Michelle D. Reyes caused an unauthorized disbursement of
23 trust account funds to be made in the amount of \$150.00 in violation of Code section 17414,
24 subdivision (a)(1) and CCR sections 1738 and 1738.2. The parties to the escrow had authorized
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26 ² 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 Michelle D. Reyes to receive \$150.00 in notary fees per the escrow instructions; however, Reyes
2 disbursed \$300.00 in notary fees to herself, \$150.00 in excess of those fees authorized by the escrow
3 principals.

4 (b) The unauthorized disbursement of trust funds described above in paragraph 2.(a) caused a
5 shortage of \$150.00 to exist in the trust account in violation of CCR section 1738.1.

6 3. Failure to Correctly Prepare Statement of Account – Escrow Numbers 5801405 and
7 5901437

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

14 4. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

15 (a) On April 2, 2009, Michelle D. Reyes caused an unauthorized disbursement of
16 trust account funds to be made in the amount of \$3,846.27 in violation of Code section 17414,
17 subdivision (a)(1) and CCR sections 1738 and 1738.2. The unauthorized disbursement of trust
18 account funds in Dependable Escrow number 5801405 was part of a lapping transaction in which title
19 charges due to be paid to Fidelity National Title Company in Dependable Escrow file number
20 5801399 were paid out of escrow file number 5801405 rather than from escrow number 5801399
21 which resulted in the unauthorized disbursement of trust account funds.

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

24 5. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

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

28 (b) The unauthorized disbursement of the trust funds described above in paragraph 5.(a)

1 caused a shortage of \$80,000.00 to exist in the trust account in violation of CCR section 1738.1.

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

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

6 (b) The unauthorized disbursement of trust funds described above in paragraph 6.(a) caused
7 a shortage of \$54,000.00 to exist in the trust account in violation of CCR section 1738.1.

8 7. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

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

12 (b) The unauthorized disbursement of trust funds described above in paragraph 7.(a) caused
13 a shortage of \$1,755.50 to exist in the trust account in violation of CCR section 1738.1.

14 8. Early Disbursement of Escrow Fees – Escrow Number 5801393

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

19 9. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

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

23 (b) The unauthorized disbursement of trust funds described above in paragraph 9.(a) caused
24 a shortage of \$1,500.00 to exist in the trust account in violation of CCR section 1738.1.

25 10. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

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

1 (b) The unauthorized disbursement of trust funds described above in paragraph 10.(a) caused
2 a shortage of \$1,777.47 to exist in the trust account in violation of CCR section 1738.1.

3 11. Failure to Follow Escrow Instructions – Escrow Number 5801388

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

13 12. Early Disbursement of Escrow Fees – Escrow Number 5801388

14 (a) On September 10, 2008, Michelle D. Reyes caused the early disbursement of
15 escrow fees in the amount of \$3,000.00 prior to the close of escrow in violation of Code section
16 17421. Escrow fees are only earned by an escrow agent upon the closing of an escrow, therefore,
17 escrow agents are not permitted to disburse fees early.

18 13. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801399

19 (a) On December 31, 2008, Michelle D. Reyes caused the unauthorized disbursement of trust
20 account funds in the amount of \$9,152.75 in violation of Code sections 17409, 17414, subdivision
21 (a)(1) and CCR sections 1738 and 1738.2. Escrow receipt number 51872 in the amount of \$9,152.75
22 was posted to Dependable Escrow’s general and/or payroll accounts instead of the trust account. The
23 commingling of trust funds is prohibited because of the serious risk of misuse and loss. Thereafter,
24 the wrongfully transferred funds were used to pay Dependable Escrow’s operating and/or payroll
25 expenses in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

26 (b) The unauthorized disbursement of the trust funds described above in paragraph 13.(a)
27 caused a shortage of \$9,152.75 to exist in the trust account in violation of Code section 1738.1.

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1 14. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801399

2 (a) On December 31, 2008, Michelle D. Reyes caused the unauthorized disbursement of trust
3 account funds in the amount of \$2,900.00 in violation of Code sections 17409, 17414, subdivision
4 (a)(1) and CCR sections 1738 and 1738.2. Escrow receipt number 51873 in the amount of \$2,900.00
5 was posted to Dependable Escrow’s general and/or payroll accounts instead of the trust account. The
6 commingling of trust funds is prohibited because of the serious risk of misuse and loss. Thereafter,
7 the wrongfully transferred funds were used to pay Dependable Escrow’s operating and/or payroll
8 expenses in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

9 (b) The unauthorized disbursement of the trust funds described above in paragraph 14.(a)
10 caused a shortage of \$2,900.00 to exist in the trust account in violation of Code section 1738.1.

11 P. Making unauthorized disbursements of trust funds, causing trust account shortages,
12 causing the early disbursement of escrow fees, taking unauthorized notary fees in excess of those
13 authorized by the escrow principals, engaging in lapping activities, failing to properly prepare the
14 statement of account, incorrectly posting escrow receipts to the general account, and failing to follow
15 escrow instructions constitute grounds under Financial Code section 17423 to bar a person from any
16 position of employment, management, or control of any escrow agent.

17 Q. On April 19, 2012, the Commissioner issued a Notice of Intention to Issue Order Pursuant
18 to Financial Code section 17423 (Bar From Employment, Management or Control), Accusation, and
19 accompanying documents against Michelle D. Reyes based upon the above findings, and Michelle D.
20 Reyes was personally served with those documents on April 22, 2012. The Complainant has not
21 received a request for hearing from Michelle D. Reyes and the time to request a hearing on the
22 Commissioner’s Notice of Intention/Accusation expired on May 7, 2012.

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

DATED: May 10, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner
Enforcement Division