

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
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Deputy Commissioner  
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7 Attorneys for Complainant  
8

9 BEFORE THE DEPARTMENT OF CORPORATIONS  
10 OF THE STATE OF CALIFORNIA  
11

12 In the Matter of the Accusation of THE ) Case No.: 963-0873  
CALIFORNIA CORPORATIONS )  
13 COMMISSIONER, ) SUSPENSION ORDER  
14 )  
Complainant, )  
15 )  
16 vs. )  
17 DEPENDABLE ESCROW CO., )  
18 Respondent. )  
19 )  
20 )

21 Pursuant to the Settlement Agreement entered into between the California Corporations  
22 Commissioner ("Commissioner") and Dependable Escrow Co. ("Dependable") on  
23 February 26, 2007, attached and incorporated herein as Exhibit A, it is hereby ordered that the  
24 escrow agent's license issued to Dependable is suspended for a period of seven (7) calendar days  
25 commencing on March 8, 2007, during which period Dependable shall not accept any new escrow  
26 business, but may continue to service prior and open escrows, in accordance with California  
27 Financial Code section 17609.  
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1           It is further ordered that Dependable shall provide the Commissioner at close of business on  
2 March 7, 2007, a list of all open escrows with escrow numbers and escrow party names along with a  
3 copy of the signed escrow instructions and signed deposit receipt(s) for the last opened escrow.  
4 Open escrow means an escrow wherein the parties to such escrow have already entered into a  
5 binding agreement and monies and/or escrow instructions have been submitted to Dependable  
6 regarding the transaction. Dependable is additionally ordered to immediately engage its certified  
7 public accounting firm to review the records of Dependable after the suspension has been completed  
8 to determine Dependable’s compliance this Order and report its findings to the Department within 30  
9 days of completion of the suspension period.

10           Pursuant to the terms of the Settlement Agreement, Dependable admits the following for  
11 purposes of this Order and any future proceedings initiated by or brought before the California  
12 Corporations Commissioner only:

13           1.       Dependable is, and was at all times relevant, an escrow agent licensed by the  
14 Commissioner pursuant to the Escrow Law of the State of California (California Financial Code  
15 Section 17000 et seq.). Dependable has its principal place of business located at 2001 W. Beverly  
16 Boulevard, Montebello, California 90604.

17           2.       On April 19, 2005, Dependable, through its certified public accountant, filed its  
18 audited financials for the year ending December 31, 2004 with the Commissioner as required by  
19 California Financial Code section 17200. The 2004 audited financial statements for Dependable  
20 stated on page 14 “[i]t was noted in reviewing various files that certain disbursements were made  
21 from the trust account that appear to be personal in nature. . . .” The 2004 audited financials also  
22 contained a trial balance for the period ended December 31, 2004, which disclosed a possible trust  
23 account shortage of \$261,497.45.

24           3.       On April 22, 2005, the Commissioner commenced a special examination of the books  
25 and records of Dependable based upon the information contained in the 2004 audited financials. The  
26 escrow ledgers obtained at the commencement of the special examination included activity through  
27 April 21, 2005 and disclosed 35 escrows with debit balances totaling \$533,962.90. The End of  
28 Month Exceptions Overdraft report provided for April 30, 2005 included a further \$119,918.67 in

1 debit balances. The special examination eventually revealed that as of April 30, 2004, Dependable  
2 had a trust account shortage of \$832,170.22, which had been as high as \$1,022,920.28. The trust  
3 account shortage had begun as early as February 2004 and continued climbing into April 2005. The  
4 Commissioner believes from documentation reviewed that Dependable has cured the trust account  
5 shortage.

6 4. Linda J. Chavez, a former manager and escrow officer of Dependable, caused at least  
7 \$481,018.84 of the total trust account shortage when she made unauthorized disbursements of trust  
8 funds in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title  
9 10, sections 1738 and 1738.2. The unauthorized disbursements of trust funds made by Chavez are  
10 described in more detail in the Accusation issued by the Commissioner against Chavez on May 16,  
11 2006.

12 5. Close shorts and other reasons caused at least \$163,947.04 of the trust account  
13 shortage, of which eleven of the debit balances are described as follows:

14 A. Dependable escrow number 0210529

15 On February 9, 2004, Dependable over disbursed funds to the buyer by \$1,000.00  
16 thereby causing a debit balance of \$1,000.00 in violation of California Code of Regulations, title 10,  
17 section 1738.1. The debit balance was corrected on April 26, 2005 when Dependable deposited  
18 \$1,000.00 into the trust account.

19 B. Dependable escrow number 0412935

20 On January 31 and April 11, 2005, Dependable disbursed funds to pay the termite and  
21 escrow fees when there were insufficient funds to the credit of the escrow to cover such  
22 disbursements thereby causing a debit balance of \$2,028.62 in violation of California Code of  
23 Regulations, title 10, section 1738.1. The debit balance was corrected on May 4, 2005 when  
24 Dependable deposited \$2,028.62

25 C. Dependable escrow number 0210617

26 On April 15, 2004, Dependable over disbursed funds to the buyer by \$2,351.70  
27 thereby causing a debit balance of \$2,351.70 in violation of California Code of Regulations, title 10,  
28 section 1738.1. The debit balance was corrected on May 10, 2005 when Dependable deposited

1 \$2,351.70 into the trust account.

2 D. Dependable escrow number 0412016

3 On April 7, 2005, Dependable issued a replacement check to the seller without  
4 canceling the initial check thereby causing a debit balance of \$2,607.63 in violation of California  
5 Code of Regulations, title 10, section 1738.1. The debit balance was corrected on April 22, 2005  
6 when Dependable canceled the initial check, which remained outstanding at the time.

7 E. Dependable escrow number 0412176

8 On April 6, 2005, Dependable issued replacement checks to the Franchise Tax Board  
9 without canceling the initial checks thereby causing a debit balance of \$19,641.60 in violation of  
10 California Code of Regulations, title 10, section 1738.1. The debit balance was corrected on April  
11 22, 2005 when Dependable issued stop payment orders on the initial checks, which remained  
12 outstanding at the time, and deposited \$60.00 into the trust account.

13 F. Dependable escrow number 0412758

14 On April 2, 2005, Dependable issued a check in the amount of \$3,829.50 to the  
15 Franchise Tax Board in error thereby causing a debit balance of \$3,381.35 in violation of California  
16 Code of Regulations, title 10, section 1738.1. The debit balance was corrected on April 22, 2005  
17 when Dependable canceled the check to the Franchise Tax Board, which remained outstanding at the  
18 time.

19 G. Dependable escrow number 0412783

20 On April 6, 2005, Dependable issued two replacement checks without canceling the  
21 initial checks thereby causing a debit balance of \$6,270.00 in violation of California Code of  
22 Regulations, title 10, section 1738.1. The debit balance was corrected on April 22, 2005 when  
23 Dependable canceled the initial checks, which remained outstanding at the time.

24 H. Dependable escrow number 0513075

25 On April 21, 2005, Dependable issued three replacement checks without canceling  
26 the initial checks thereby causing a debit balance of \$11,008.00 in violation of California Code of  
27 Regulations, title 10, section 1738.1. The debit balance was corrected on April 26, 2005 when  
28 Dependable canceled the initial checks, which remained outstanding at the time.

1 I. Dependable escrow number 0513121

2 On April 21, 2005, Dependable issued duplicate checks to three payees totaling  
3 \$14,418.80 thereby causing a debit balance of \$14,418.80 in violation of California Code of  
4 Regulations, title 10, section 1738.1. The debit balance was corrected on April 22, 2005 when  
5 Dependable canceled the duplicate checks, which remained outstanding at the time.

6 J. Dependable escrow number 0513157

7 On April 15, 2005, Dependable issued a duplicate proceeds check to the seller  
8 thereby causing a debit balance of \$58,608.80 in violation of California Code of Regulations, title  
9 10, section 1738.1. The debit balance was corrected on April 22, 2005 when Dependable canceled  
10 the duplicate check, which remained outstanding at the time.

11 K. Dependable escrow number 0513179

12 On April 20, 2005, Dependable issued a check in the amount of \$13,186.80 to the  
13 Franchise Tax Board in error thereby causing a debit balance of \$13,186.80 in violation of California  
14 Code of Regulations, title 10, section 1738.1. The debit balance was corrected on April 22, 2005  
15 when Dependable canceled the check to the Franchise Tax Board, which remained outstanding at the  
16 time.

17 6. The remaining \$190,172.60 of the trust account shortage was caused by posting errors  
18 and thus not a true shortage and is described as follows:

19 A. Dependable escrow number 0412495

20 On March 1 and 2, 2005, seven (7) checks totaling \$21,103.25 were posted to escrow  
21 number 0412495 in error and caused the escrow to appear to be overdrawn by \$19,584.25. The  
22 escrow ledger disclosed a debit balance appearing as of March 1, 2005, but Dependable made no  
23 efforts to correct the posting errors until after the special examination was commenced on or about  
24 April 22, 2005.

25 B. Dependable escrow number 0412942

26 On April 21, 2005, the cancellation of check number 78786 in the amount of  
27 \$4,161.38 was posted to escrow number 0512942 in error and caused escrow number 0412942 to  
28

1 appear to be overdrawn by \$4,161.38. The posting error was corrected by Dependable on or about  
2 April 22, 2005.

3 C. Dependable escrow number 0513136

4 On March 31, 2005, receipt number 22786 for \$164,416.97 was improperly posted to  
5 escrow number 0513038 and caused escrow number 0513136 to appear to be overdrawn by  
6 \$164,416.97. The posting error was corrected by Dependable on or about April 28, 2005.

7 D. Dependable escrow number 0513285

8 On April 21, 2005, receipt number 22821 for \$2,000.00, which involved a returned  
9 deposit item in escrow number 0513281, was adjusted out of escrow number 0513285 in error and  
10 caused escrow number 0513285 to appear to be overdrawn by \$2,000.00. The posting error was  
11 corrected by Dependable on or about April 25, 2005.

12 7. Dependable discovered the misappropriation of trust funds by Linda J. Chavez on  
13 March 21, 2005, but never reported it to the Commissioner as required by California Financial Code  
14 section 17414(c). Instead, the Commissioner learned that trust funds had possibly been  
15 misappropriated from the 2004 audited financial statements for Dependable filed on April 19, 2005.  
16 California Financial Code section 17414, subsection (c), requires that any person having knowledge  
17 of any abstraction or misappropriation of trust funds must immediately report it in writing to the  
18 Commissioner.

19 Dated: February 26, 2007  
20 Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

21 By \_\_\_\_\_  
22 Kathleen R. Partin  
23 Special Administrator, Escrow Law  
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