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6 Attorneys for Complainant

7  
8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

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11 In the Matter of the Accusation of THE ) Case No.: 963-0873  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) ACCUSATION  
13 )  
Complainant, )  
14 )  
vs. )  
15 )  
16 LINDA J. CHAVEZ, )  
17 Respondent. )  
18 )

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

21 I

22 Respondent Linda J. Chavez ("Chavez") was at all times relevant herein, the manager and an  
23 escrow officer at Dependable Escrow Co. ("Dependable"), an escrow agent licensed by the  
24 California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow  
25 Law of the State of California (California Financial Code Section 17000 et seq.). Dependable has its  
26 principal place of business located at 2001 W. Beverly Boulevard, Montebello, California 90604.  
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## II

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2 On or about April 19, 2005, Dependable, through its certified public accountant, filed its  
3 audited financials for the year ending December 31, 2004 with the Commissioner as required by  
4 California Financial Code section 17200. The 2004 audited financials for Dependable stated on  
5 page 14 “[i]t was noted in reviewing various files that certain disbursements were made from the  
6 trust account that appear to be personal in nature. . . .” The 2004 audited financials also contained a  
7 trial balance for the period ended December 31, 2004, which disclosed a possible trust account  
8 shortage of \$261,497.45. On or about April 22, 2005, the Commissioner commenced a special  
9 examination of the books and records of Dependable based upon the information contained in the  
10 2004 audited financials.

11 The special examination revealed, among other things, that Chavez had made unauthorized  
12 disbursements in at least nine escrows totaling \$481,018.84 between May 2004 and January 2005  
13 (“unauthorized disbursements”) in violation of Financial Code section 17414(a)(1) and California  
14 Code of Regulations, title 10, sections 1738 and 1738.2. The special examination further revealed  
15 that Chavez made numerous posting adjustments to escrow ledgers to attempt to cover up the  
16 unauthorized disbursements in violation of Financial Code section 17414(a)(1). The unauthorized  
17 disbursements of trust funds also caused a shortage to exist in the trust account in the amount of at  
18 least \$481,018.84 in violation of California Code of Regulations, title 10, section 1738.1. Except as  
19 otherwise described below, Dependable has cured the trust account shortage created by the  
20 unauthorized disbursements.

21 The unauthorized disbursements are described as follows:

22 1. Dependable escrow number 0412083

23 (a) On or about May 27, 2004, Chavez made an unauthorized disbursement of  
24 trust funds to herself in the amount of \$410,000 in violation of Financial Code section 17414(a)(1)  
25 and California Code of Regulations, title 10, sections 1738 and 1738.2 when she caused the sum of  
26 \$410,000.00 to be wired out of Dependable escrow no. 0412083 to Magna escrow no. 0410183, an  
27 escrow Chavez had opened at Magna Escrow, Inc. to purchase a residence located at 25141 Calle  
28 Casalero, Laguna Niguel, California.

1 (b) The unauthorized disbursement described in paragraph (a) above caused a  
2 debit balance (shortage) to exist in violation of California Code of Regulations, title 10, section  
3 1738.1. The \$410,000.00 shortage remained until April 4, 2005 when the sum of \$190,750.06 was  
4 transferred to the Dependable trust account from Hallmark Escrow Co., Inc. from an escrow  
5 involving friends of Chavez. The remaining shortage of \$219,249.94 was cured by Dependable on  
6 or about May 4, 2005.

7 2. Dependable escrow number 0412504

8 (a) On or about August 31, 2004, Chavez made an unauthorized disbursement of  
9 trust funds to Washington Mutual Bank (“WAMU”) in the amount of \$1,500.00 in violation of  
10 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
11 1738.2.

12 (b) On or about September 3, 2004, Chavez made an unauthorized disbursement  
13 of trust funds to WAMU in the amount of \$1,500.00 in violation of Financial Code section  
14 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

15 (c) On or about November 24, 2004, Chavez made an unauthorized disbursement  
16 of trust funds to WAMU in the amount of \$1,900.00 in violation of Financial Code section  
17 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

18 (d) On or about December 3, 2004, Chavez made an unauthorized disbursement  
19 of trust funds to Wells Fargo Home Mortgage in the amount of \$13,045.00 in violation of Financial  
20 Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

21 (e) On or about December 10, 2004, Chavez made an unauthorized disbursement  
22 of trust funds to WAMU in the amount of \$1,650.00 in violation of Financial Code section  
23 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

24 (f) The unauthorized disbursements described in paragraphs (a) - (e) above  
25 caused a shortage of \$19,595.00 to exist in violation of California Code of Regulations, title 10,  
26 section 1738.1. The shortage remained until it was cured by Dependable on or about May 4, 2005.

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1           3.     Dependable escrow number 0411949

2           (a)     On or about May 18, 2004, Chavez made an unauthorized disbursement of  
3 trust funds to East West Bank in the amount of \$9,113.96 in violation of Financial Code section  
4 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

5           (b)     On or about May 28, 2004, Chavez made an unauthorized disbursement of  
6 trust funds to East West Bank in the amount of \$2,564.20 in violation of Financial Code section  
7 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

8           (c)     On or about May 28, 2004, Chavez made an unauthorized disbursement of  
9 trust funds to Wells Fargo Bank in the amount of \$2,905.00 in violation of Financial Code section  
10 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

11           (d)     On or about June 24, 2004, Chavez made an unauthorized disbursement of  
12 trust funds to WAMU in the amount of \$700.00 in violation of Financial Code section 17414(a)(1)  
13 and California Code of Regulations, title 10, sections 1738 and 1738.2.

14           (e)     On or about October 15, 2004, Chavez made an unauthorized disbursement of  
15 trust funds to WAMU in the amount of \$4,000.00 in violation of Financial Code section 17414(a)(1)  
16 and California Code of Regulations, title 10, sections 1738 and 1738.2.

17           (f)     The unauthorized disbursements described in paragraphs (a) - (e) above  
18 caused a shortage of \$19,283.16 to exist in violation of California Code of Regulations, title 10,  
19 section 1738.1. The shortage remained until it was cured by Dependable on or about August 23,  
20 2005.

21           4.     Dependable escrow number 0412275

22           (a)     On or about January 14, 2005, Chavez made an unauthorized disbursement of  
23 trust funds to WAMU in the amount of \$1,735.00 in violation of Financial Code section 17414(a)(1)  
24 and California Code of Regulations, title 10, sections 1738 and 1738.2.

25           (b)     On or about January 21, 2005, Chavez made an unauthorized disbursement of  
26 trust funds to Dependable escrow number 0412841 in the amount of \$12,000.00 in violation of  
27 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
28 1738.2.

1 (c) The unauthorized disbursements described in paragraphs (a) and (b) above  
2 caused a further shortage in the trust account of \$13,735.00 in violation of California Code of  
3 Regulations, title 10, section 1738.1. The shortage remained until it was cured by Dependable on or  
4 about May 4, 2005.

5 5. Dependable escrow number 0412167

6 (a) On or about November 16, 2004, Chavez made an unauthorized disbursement  
7 of trust funds to WAMU in the amount of \$2,200.00 in violation of Financial Code section  
8 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

9 (b) On or about December 16, 2004, Chavez made two unauthorized  
10 disbursements of trust funds to WAMU in the amount of \$3,300.00 and \$1,995.00, respectively, in  
11 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
12 sections 1738 and 1738.2.

13 (c) The unauthorized disbursements described in paragraphs (a) and (b) above  
14 caused a shortage in the trust account of \$7,495.00 in violation of California Code of Regulations,  
15 title 10, section 1738.1. The shortage remained until it was cured by Dependable on or about August  
16 23, 2005.

17 6. Dependable escrow number 0411974

18 (a) On or about August 13, 2004, Chavez made an unauthorized disbursement of  
19 trust funds to Wells Fargo Bank in the amount of \$2,700.00 in violation of Financial Code section  
20 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

21 (b) On or about August 13, 2004, Chavez made two unauthorized disbursements  
22 of trust funds to WAMU in the amount of \$1,400.00 and \$1,305.00, respectively, in violation of  
23 Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and  
24 1738.2.

25 (c) On or about November 11, 2004, Chavez made a further unauthorized  
26 disbursement of trust funds to WAMU in the amount of \$2,071.00 in violation of Financial Code  
27 section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.  
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1 (d) The unauthorized disbursements described in paragraphs (a) - (c) above  
2 caused a further shortage in the trust account of \$7,476.00 in violation of California Code of  
3 Regulations, title 10, section 1738.1. The shortage remained until it was cured by Dependable on or  
4 about May 4, 2005.

5 7. Dependable escrow number 0412964

6 (a) On or about January 13, 2005, Chavez closed escrow with insufficient funds  
7 thereby causing a shortage of \$2,416.68 to exist in violation of California Code of Regulations, title  
8 10, section 1738.1. The shortage remained until it was cured by Dependable on or about August 25,  
9 2005.

10 8. Dependable escrow number 0412376

11 (a) On or about October 13, 2004, Chavez made an unauthorized disbursement of  
12 trust funds to WAMU in the amount of \$518.00 in violation of Financial Code section 17414(a)(1)  
13 and California Code of Regulations, title 10, sections 1738 and 1738.2.

14 (b) The unauthorized disbursements described in paragraph (a) above caused a  
15 shortage of \$518.00 to exist in violation of California Code of Regulations, title 10, section 1738.1.  
16 The shortage remained until it was cured by Dependable on or about August 25, 2005.

17 9. Dependable escrow number 0311796

18 (a) On or about January 5, 2005, Chavez over disbursed trust funds by \$500.00 in  
19 replacing a prior check issued to the Franchise Tax Board thereby causing a further shortage in the  
20 trust account of \$500.00 in violation of California Code of Regulations, title 10, section 1738.1. The  
21 shortage remained until it was cured by Dependable on or about April 26, 2005.

22 III

23 California Financial Code section 17414, subsections (a)(1) and (a)(2) provide:

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

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

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2 (2) Knowingly or recklessly make or cause to be made any misstatement  
3 or omission to state a material fact, orally or in writing, in escrow books, accounts,  
4 files, exhibits, statements, or any other document pertaining to an escrow  
5 or escrow affairs.

6 California Code of Regulations, title 10, section 1738, subsection (a), provides in part:

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

11 California Code of Regulations, title 10, section 1738.1 provides:

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

15 California Code of Regulations, title 10, section 1738.2 provides:

16 An escrow agent shall use documents or other property deposited in escrow  
17 only in accordance with the written escrow instructions of the principals to  
18 the escrow transaction . . . , or if not otherwise directed by the written or  
19 electronically executed instructions, in accordance with sound escrow practice,  
20 or pursuant to order of a court of competent jurisdiction.

21 IV

22 California Financial Code section 17423 provides in pertinent part:

23 (a) The commissioner may, after appropriate notice and opportunity  
24 for hearing, by order, . . . bar from any position of employment,  
25 management, or control any escrow agent, or any other person, if the  
26 commissioner finds either of the following:

27 (1) That the . . . bar is in the public interest and that the person has  
28 committed or caused a violation of this division or 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.

V

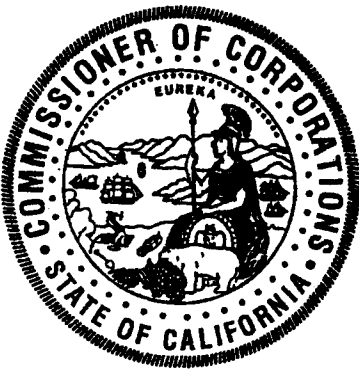
Complainant finds that, by reason of the foregoing, Respondent Chavez has violated sections  
17414(a)(1) and 17414(a)(2) of the Financial Code and sections 1738, 1738.1 and 1738.2 of title 10

1 of the California Code of Regulations, has caused material damage to the escrow agent, and it is in  
2 the best interests of the public to bar Respondent Chavez from any position of employment,  
3 management or control of any escrow agent.

4 WHEREFORE, IT IS PRAYED that Respondent Chavez be barred from any position of  
5 employment, management or control of any escrow agent.

6 Dated: May 15, 2006  
7 Los Angeles, CA

WAYNE STRUMPFER  
Acting California Corporations Commissioner



8 By \_\_\_\_\_  
9 Indy L. Hartley  
10 Senior Corporations Counsel  
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