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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 ) File Nos.: 963-2090  
CALIFORNIA CORPORATIONS )  
13 COMMISSIONER, )  
14 ) ACCUSATION  
Complainant, )  
15 )  
16 vs. )  
17 ESCROW DIVERSIFIED, INC. and TINA M. )  
COATES, )  
18 )  
19 Respondents. )  
20

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

23 I

24 Respondent Escrow Diversified, Inc. ("Diversified") is an escrow agent licensed by the  
25 California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow  
26 Law of the State of California (California Financial Code Section 17000 et seq.). Diversified has its  
27 principal place of business located at 7561 Center Avenue Building 48, Huntington Beach,  
28 California 92647.

1 Respondent Tina M. Coates (“Coates”) was at all times relevant herein, the president and co-  
2 owner of Diversified.

## 3 II

4 On or about October 11, 2007, the Commissioner, by and through his staff, commenced a  
5 special examination of the books and records of Diversified. The special examination was  
6 commenced after the Department of Corporations (“Department”) received information that trust  
7 account check(s) issued by Diversified were unable to clear the account. The special examination  
8 revealed that Diversified, by and through Coates, had wrongfully transferred trust funds in the  
9 amount of \$153,054.12 from the trust account of Diversified into the general account and/or payroll  
10 accounts of Diversified between April 2006 and September 2007 in violation of Financial Code  
11 sections 17409. The commingling of trust funds is prohibited because of the serious risk of misuse  
12 and loss. Thereafter, the wrongfully transferred trust funds were used to pay the operating and/or  
13 payroll expenses of Diversified in violation of 17414(a)(1) and California Code of Regulations, title  
14 10, sections 1738 and 1738.2.

15 The special examination further revealed that Diversified, by and through Coates, had made  
16 two further unauthorized disbursements of trust funds from the Diversified trust account totaling  
17 \$8,100.00 for the personal benefit of Coates in violation of Financial Code section 17414(a)(1) and  
18 California Code of Regulations, title 10, sections 1738 and 1738.2.

19 The commingling and wrongful disbursements of trust funds by Diversified resulted in a trust  
20 account shortage in violation of California Code of Regulations, title 10, section 1738.1. An  
21 overpayment in one escrow transaction caused by over receipting funds into escrow caused a  
22 shortage of \$1,000.00 resulting in a total trust account shortage of \$162,154.12. Diversified has  
23 been unable to cure the trust account shortage to date.

24 The commingling and wrongful disbursements of trust funds discovered during the special  
25 examination of Diversified are described as follows:

26 1. On or about April 28, 2006, Coates transferred or caused to be transferred the sum of  
27 \$5,000.00 in trust funds from the trust account to the general account of Diversified (“general  
28 account”) in violation of Financial Code section 17409. Thereafter, these trust funds were used to

1 pay operating expenses of Diversified in violation of Financial Code section 17414(a)(1) and  
2 California Code of Regulations, title 10, sections 1738 and 1738.2.

3         2.       On or about June 15, 2006, Coates transferred or caused to be transferred the sum of  
4 \$5,800.00 in trust funds from the trust account to the payroll account of Diversified (“payroll  
5 account”) in violation of Financial Code section 17409. Thereafter, these trust funds were used for  
6 payroll expenses of Diversified in violation of Financial Code section 17414(a)(1) and California  
7 Code of Regulations, title 10, sections 1738 and 1738.2.

8         3.       On or about July 26, 2006, Coates transferred or caused to be transferred the sum of  
9 \$12,675.00 in trust funds from the trust account to the general account of Diversified (“general  
10 account”) in violation of Financial Code section 17409. Thereafter, these trust funds were used to  
11 pay operating expenses of Diversified in violation of Financial Code section 17414(a)(1) and  
12 California Code of Regulations, title 10, sections 1738 and 1738.2.

13         4.       On or about July 28, 2006, Coates disbursed or caused to be disbursed the sum of  
14 \$2,100.00 in trust funds by way of trust check number 995 to pay against her American Express  
15 account in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title  
16 10, sections 1738 and 1738.2.

17         5.       On or about August 7, 2006, Coates disbursed or caused to be disbursed the sum of  
18 \$6,000.00 in trust funds by way of trust check number 997 to Nationwide Escrow, a company she  
19 had purchased, in violation of Financial Code section 17414(a)(1) and California Code of  
20 Regulations, title 10, sections 1738 and 1738.2.

21         6.       On or about August 16, 2006, Coates transferred or caused to be transferred the sum  
22 of \$3,750.00 in trust funds from the trust account to the general account in violation of Financial  
23 Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
24 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
25 title 10, sections 1738 and 1738.2.

26         7.       On or about September 1, 2006, Coates transferred or caused to be transferred the  
27 sum of \$8,750.00 in trust funds from the trust account to the general account in violation of  
28 Financial Code section 17409. Thereafter, these trust funds were used to pay operating expenses of

1 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
2 title 10, sections 1738 and 1738.2.

3 8. On or about September 21, 2006, Coates transferred or caused to be transferred the  
4 sum of \$10,285.00 in trust funds from the trust account to the general account in violation of  
5 Financial Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
6 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
7 title 10, sections 1738 and 1738.2.

8 9. On or about September 28, 2006, Coates transferred or caused to be transferred the  
9 sum of \$7,500.00 in trust funds from the trust account to the payroll account in violation of Financial  
10 Code section 17409. Thereafter, these trust funds were used for payroll expenses of Diversified in  
11 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
12 sections 1738 and 1738.2.

13 10. On or about October 2, 2006, Coates transferred or caused to be transferred the sum  
14 of \$14,270.00 in trust funds from the trust account to the general account in violation of Financial  
15 Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
16 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
17 title 10, sections 1738 and 1738.2.

18 11. On or about November 1, 2006, Coates transferred or caused to be transferred the  
19 sum of \$10,765.00 in trust funds from the trust account to the general account in violation of  
20 Financial Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
21 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
22 title 10, sections 1738 and 1738.2.

23 12. On or about December 20, 2006, Coates transferred or caused to be transferred the  
24 sum of \$13,125.00 in trust funds from the trust account to the general account in violation of  
25 Financial Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
26 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
27 title 10, sections 1738 and 1738.2.  
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1           13.     On or about January 11, 2007, Coates transferred or caused to be transferred the sum  
2 of \$5,680.00 in trust funds from the trust account to the general account in violation of Financial  
3 Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
4 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
5 title 10, sections 1738 and 1738.2.

6           14.     On or about January 18, 2007, Coates transferred or caused to be transferred the sum  
7 of \$9,875.00 in trust funds from the trust account to the general account in violation of Financial  
8 Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
9 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
10 title 10, sections 1738 and 1738.2.

11           15.     On or about March 19, 2007, Coates transferred or caused to be transferred the sum  
12 of \$12,025.00 in trust funds from the trust account to the general and payroll accounts in violation of  
13 Financial Code section 17409. Thereafter, these trust funds were used to pay operating and payroll  
14 expenses of Diversified in violation of Financial Code section 17414(a)(1) and California Code of  
15 Regulations, title 10, sections 1738 and 1738.2.

16           16.     On or about May 15, 2007, Coates transferred or caused to be transferred the sum of  
17 \$10,750.00 in trust funds from the trust account to the general account in violation of Financial Code  
18 section 17409. Thereafter, these trust funds were used to pay operating expenses of Diversified in  
19 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
20 sections 1738 and 1738.2.

21           17.     On or about June 1, 2007, Coates transferred or caused to be transferred the sum of  
22 \$6,986.60 in trust funds from the trust account to the payroll account in violation of Financial Code  
23 section 17409. Thereafter, these trust funds were used for payroll expenses of Diversified in  
24 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
25 sections 1738 and 1738.2.

26           18.     On or about August 21, 2007, Coates transferred or caused to be transferred the sum  
27 of \$7,352.52 in trust funds from the trust account to the payroll account in violation of Financial  
28 Code section 17409. Thereafter, these trust funds were used for payroll expenses of Diversified in

1 violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10,  
2 sections 1738 and 1738.2.

3 19. On or about September 17, 2007, Coates transferred or caused to be transferred the  
4 sum of \$7,352.52 in trust funds from the trust account to the general account in violation of  
5 Financial Code section 17409. Thereafter, these trust funds were used to pay operating expenses of  
6 Diversified in violation of Financial Code section 17414(a)(1) and California Code of Regulations,  
7 title 10, sections 1738 and 1738.2.

8 III

9 Diversified’s failure to cure the trust account shortage, caused the Commissioner, on  
10 December 5, 2007, to issue a Demand For and Order Taking Possession of the Trust Account(s) and  
11 Escrow Records of Escrow Diversified pursuant to Financial Code section 17621 and an Order  
12 Appointing Peter Davidson as Conservator pursuant to Financial Code section 17630. The orders  
13 were necessary in order to offer any possible protection to the escrow customers of Diversified.

14 IV

15 Financial Code section 17409 provides in pertinent part:

16 All moneys deposited into escrow to be delivered upon the close of  
17 escrow or upon any other contingency, shall be deposited and maintained  
18 in a noninterest-bearing demand or checking account in a bank . . . All such  
19 funds, when deposited, are to be designated as “trust funds,” “escrow accounts,”  
20 or some other appropriate name indicating that the funds are not the funds of  
21 the escrow agent. . . .

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

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

26 (1) Knowingly or recklessly disburse or cause the disbursement of  
27 escrow funds otherwise than in accordance with escrow instructions,  
28 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.

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

5 California Code of Regulations, title 10, section 1738 provides:

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

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

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

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

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

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

24 California Code of Regulations, Title 10, section 1738.1 provides:

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

California Code of Regulations, title 10, 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 transmitted electronically over the Internet  
executed by the principals to the escrow transaction, or if not otherwise directed by

1 written or electronically executed instructions, in accordance with sound escrow  
2 practice, or pursuant to order of a court of competent jurisdiction.

3  
4 V

5 California Financial Code section 17608 provides in pertinent part:

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

8 (b) The licensee has violated any provision of this division or any  
9 rule made by the commissioner under and within the authority of this  
10 division.

11 (c) Any fact or condition now exists which, if it had existed at the  
12 time of the original application for such license, reasonably would have  
13 warranted the commissioner in refusing originally to issue such license.

14 California Financial Code section 17423 provides in pertinent part:

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

19 (1) That the . . . bar is in the public interest and that the person has  
20 committed or caused a violation of this division or rule or order of  
21 the commissioner, which violation was either known or should have  
22 been known by the person committing or causing it or has caused material  
23 damage to the escrow agent or to the public.

24 VI

25 Complainant finds that, by reason of the foregoing, Respondents Diversified and Coates have  
26 violated Financial Code sections 17409 and 17414(a)(1) and California Code of Regulations, title  
27 10, sections 1738, 1738.1, and 1738.2 and it is in the best interests of the public to revoke the escrow  
28 agent's license of Respondent Diversified and to bar Respondent Coates from any position of  
employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondent Coates be barred from any position of  
employment, management or control of any escrow agent and the escrow agent's license of



1 Respondent Diversified be revoked effective upon the termination of the pending conservatorship of  
2 Diversified.

3 Dated: January 2, 2008  
4 Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

5 By \_\_\_\_\_  
6 Judy L. Hartley  
7 Senior Corporations Counsel

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