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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) File No.: 963-1462
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
vs.)
15)
16 NAOMI ESTRADA, also known as NEOMI)
ESTRADA,)
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 Naomi Estrada also known as Neomi Estrada ("Estrada" or "Respondent") was, at
23 all times relevant herein, an employee and escrow officer at C. Gull Escrows, Inc., ("C. Gull").
24 C. Gull is an escrow agent licensed by the California Corporations Commissioner
25 ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California
26 (California Financial Code §§17000 et seq.). C. Gull has its principal place of business located at
27 18000 Studebaker Road, Suite 200, Cerritos, California 90703.
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II.

On or about December 5, 2005, the Commissioner commenced a regulatory examination (“Examination”) of the books and records of C. Gull. During the Examination, the Commissioner discovered that Estrada engaged in unlawful acts while handling at least five escrow transactions, including but not limited to, permitting a party to alter or amend an escrow instruction without the signature or initials of that party to the alteration or amendment in violation of Financial Code section 17403.2 subsection (a)¹; knowingly or recklessly disbursing or causing the disbursements of escrow funds in violation of Section 17414 (a), and California Code of Regulations, Title 10, section 1738; failing to comply with the duty to act without partiality to a party to an escrow transaction in violation of the California Code of Regulations, Title 10, section 1740.1; and failing to follow escrow instructions in violation of California Code of Regulations, Title 10, section 1738.2. Estrada acted in violation of the Financial Code and California Code of Regulations provisions in the manner more fully described below:

A. Escrow Number 12567-NE**1. Respondent Permitted the Alteration or Amendment of an Escrow Instruction in violation of Section 17403.2, subsection (a)**

Escrow file number 12567-NE, opened on September 1, 2005, relates to the sale and purchase of a property located in Glendale, California. Escrow file number 12567-NE contains two versions of the California Residential Purchase Agreement And Escrow Instruction (“Purchase Agreement”), dated September 1, 2005 and August 31, 2005. The Purchase Agreement dated September 1, 2005 although unsigned by the principals, called for a 45-day escrow wherein the seller was required to pay \$30,000 towards the buyer’s closing costs. The September 1, 2005 Purchase Agreement also anticipated a negative purchase price balance of \$5,000.

The Purchase Agreement dated August 31, 2005 bears the purported signature and initials of the buyer but not those of the seller. The Examination showed that certain terms of the August 31, 2005 Purchase Agreement were improperly altered either using white out or by improperly deleting

¹ All further statutory references are to the California Financial Code unless otherwise indicated.

1 words with blue pen and inserting handwritten text without initialing the alterations. The
2 Complainant observed that the Purchase Agreement dated August 31, 2005 pertained to an unrelated
3 escrow transaction identified as escrow file number 12501-CB and was improperly altered and
4 applied to escrow file number 12567-NE. Specifically, a Buyer's Inspection Advisory form relating
5 to the August 31, 2005 Purchase Agreement shows alterations that misrepresent the true buyers and
6 sellers. Complainant's evidence shows that Estrada permitted the alteration or amendment of the
7 August 31, 2005 Purchase Agreement, which was not signed or initialed by the party making the
8 alteration or amendment, in violation of Section 17403.2 subsection (a).

9 2. Unauthorized Disbursement of Trust Funds of \$625.00

10 On or about September 16, 2005, Respondent disbursed or caused the disbursal of escrow
11 funds of \$625.00 to a mortgage broker, Omar Rios. ("Rios") Rios submitted an appraisal invoice in
12 the amount of \$625.00 that lacked supporting documents justifying the fees or evidence showing that
13 the parties agreed that the buyer would pay this invoice. A check for \$625.00 dated September 16,
14 2006 with the number 23133, representing payment for the appraisal was issued to Rios. Complainant
15 discovered that Rios did not in fact incur the appraisal fee and that the payment of \$625.00 to Rios
16 was disbursed improperly pursuant to a forged signature of the buyer, in violation of Section 17414,
17 subsection (a)(1).

18 3. Unauthorized Disbursement of Trust Funds of \$4,375.00

19 On or about March 20, 2006, Estrada disbursed or caused the disbursal of \$4,375.00 to
20 Rios. The disbursal was made pursuant to an amended escrow instruction that contained a false
21 signature of the buyer. The March 20, 2006 escrow amendment purportedly authorized the
22 cancellation of the escrow transaction and the release of \$4,375.00 to Rios as a cancellation fee.
23 Pursuant to the March 20, 2005 amended escrow instruction, check number 28102 dated March 23,
24 2006 for \$4,537.00 was issued to Rios. The disbursal of trust funds in the amount of \$4,547.00 was
25 therefore, in violation of Section 17414, subsection (a)(1).

26 4. Failure to Give Notice of Interest

27 In handling escrow file number 12567-NE, Estrada failed to observe the duty to act
28 impartially to the parties to the escrow transaction. Specifically, Estrada failed to disclose that she is

1 related to or affiliated with Rios, in that Rios is the father of her child. Estrada's failure to give
2 written notice to all parties to the escrow transaction of her relationship or affiliation with Rios before
3 being employed as escrow officer in connection with this transaction was in violation of California
4 Code of Regulations, Title 10, section 1740.1.

5 **B. Escrow Number 12501-CB**

6 1. Failure to Follow Escrow Instructions

7 Escrow file number 12501-CB was opened on or about August 22, 2005 in connection
8 with the sale or purchase of a property located in El Segundo, California. The buyer and seller were
9 Estrada and Javier Rocha, respectively. While handling escrow file number 12501-CB, Estrada
10 failed to follow written escrow instructions regarding funding conditions, including a condition that
11 she pay 5% of the closing costs out of her own funds, in violation of California Code of Regulations,
12 Title 10, Section 1738.2.

13 The Examination did not disclose any supporting documents that the buyer, Estrada, was
14 charged escrow fees or that she received a discount or credit in connection with escrow fees. Thus,
15 Estrada failed to follow escrow instructions that she pay closing costs out of her own pocket in
16 violation of California Code of Regulations, Title 10, Section 1738.2.

17 2. Unauthorized Disbursement of Trust Funds

18 Additionally, Estrada disbursed or caused the disbursement of funds to her uncle without proper
19 notification to, or authorization from the lender in violation of Section 17414 (a)(1). The
20 Examination disclosed that on or about September 30, 2005, C. Gull received \$40,210.19 in the form
21 of a cashier's check from Estrada's uncle, Anthony Arana ("Arana") for and on behalf of Estrada.
22 Thereafter, C. Gull received a gift letter dated September 28, 2005 from Arana, wherein Arana stated
23 he was Estrada's uncle and was making a gift of \$43,000 to Estrada without any expectation of
24 repayment. Complainant observed that the initial amount of \$43,000 was altered to show 40,210.19
25 instead.

26 According to an amended escrow instruction dated September 15, 2005, the seller had agreed
27 to refinance or absorb the amount of \$43,000 pursuant to a promissory note with interest, that Estrada
28 issued the seller. The principals to the transaction signed an amended escrow instruction dated

1 September 30, 2005 in which they agreed that \$40,000 from the seller's net proceeds would be paid
2 to Arana Enterprises.

3 On or about October 5, 2005, the next day after escrow closed, check number 23732 in the
4 amount of \$40,000 was issued to Arana Enterprises LLC. The Examination did not show any
5 supporting documents or evidence that the lender approved the transaction between Estrada and
6 Arana Enterprises LLC, or that the lender approved the gift deposit of \$43,000 to Estrada.

7 3. Estrada Conducted business in an Unsafe or Injurious Manner

8 The Examination disclosed that Estrada conducted business in an unsafe and injurious
9 manner by improperly handling or processing her own file.

10 4. Failure to Give Notice of Interest

11 In handling escrow file number 12501-CB, Estrada failed to observe the duty to act
12 impartially to the parties to the escrow transaction. Specifically, Estrada failed to disclose that she is
13 related to or affiliated with C. Gull in that she was employed as an escrow officer in connection with
14 this transaction, in violation of California Code of Regulations, Title 10, section 1740.1.

15 C. Escrow Number 11642-NE

16 1. Unauthorized Disbursal of Funds

17 Escrow file number 11642-NE was opened on or about March 17, 2005 in connection with
18 the sale or purchase of a property located in Glendale, California. The buyer was Arana. The
19 Examination of escrow file number 11642-NE disclosed that an unauthorized disbursal of trust funds
20 in the amount of \$927.36 was made to Rios pursuant to an amended escrow instruction dated May 23,
21 2005 that contained forged signatures of the sellers, in violation of Section 17414 subsection (a)(1).

22 2. Failure to Give Notice of Interest to Clients

23 While handling escrow file number 11642-NE, Estrada failed to observe the duty to act
24 impartially to the parties to the escrow transaction in accordance with California Code of
25 Regulations, Title 10, section 1740.1. Estrada failed to inform the principals in writing of her
26 relationship or affiliation with Rios and Arana prior to her employment as escrow agent in connection
27 with the transaction.

28

1 3. Failure to Follow Escrow Instructions

2 Estrada failed to follow written escrow instructions that required the buyer, Arana, to deposit
3 \$1,000 into escrow. Further, the seller gave the buyer credit for recurring costs of \$7,000 despite
4 written escrow instructions that prohibited crediting or refunding the buyer recurring costs, in
5 violation of California Code of Regulations, Title 10, section 1738.2.

6 4. Unauthorized Disbursal of Trust Funds

7 Additionally, Estrada disbursed or caused the disbursal of funds to her uncle without proper
8 notification to, or authorization from the lender in violation of Section 17414 (a)(1) by giving the
9 buyer a credit for the recurring costs referenced herein.

10 **D. Escrow Number 11877-NE**

11 1. Unauthorized Disbursal of Trust Funds of \$355.10

12 Escrow file number 11877-NE was opened on April 28, 2005. The Complainant's review of
13 this escrow file showed that Estrada unlawfully disbursed or caused the disbursal of \$355.10 to her
14 relative. Check number 21748 dated August 3, 2005 in the amount of \$355.10 was issued to said
15 relative pursuant to an undated letter purportedly authorizing the disbursal that bore a forged
16 signature of the buyer. Therefore, the disbursal of \$355.10 was in violation of Section 17414 (a)(1),
17 and California Code of Regulations, Title 10, section 1738.2.

18 2. Unlawful Disbursal of Trust Funds of \$250.00

19 In or about August 2005, Estrada disbursed or caused the disbursal of \$250.00 to her relative
20 purportedly for "notary" expenses. The file showed no supporting documentation authorizing the
21 expense or disbursement. As such, the disbursement was made in violation of California Code of
22 Regulations, Title 10, section 1738.2.

23 **E. Escrow Number 12256-CB**

24 Estrada Conducted business in an Unsafe or Injurious Manner

25 Escrow file number 12256-CB was opened on or about July 7, 2005. The seller and
26 buyer were Estrada and Arana, respectively. The Examination disclosed that Estrada conducted
27 business in an unsafe and injurious manner by improperly handling or processing her own file.
28

III.

Section 17403.2, subsection (a) provides:

(a) No person subject to this division shall solicit or accept an escrow instruction or amended or supplemental escrow instruction containing any blank to be filled in after signing or initialing of the escrow instruction or amended or supplemental escrow instruction, nor permit any person to make any addition to, deletion from, or alteration of an escrow instruction or amended or supplemental escrow instruction, unless the addition, deletion or alteration is signed or initialed by all persons who had signed or initialed the escrow instruction or amended or supplemental escrow instruction prior to the addition, deletion or alteration.

Section 17414, subsection (a)(1) provides:

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

(1) Knowingly or recklessly disburse or cause the disbursement of 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.

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

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

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

California Code of Regulations, title 10, section 1740.1 provides:

An escrow agent shall act without partiality to any of the parties to an escrow

1 transaction. If an escrow agent or a person or company related to or affiliated with the
2 escrow agent is a principal to the escrow transaction or is acting or has acted as broker
3 or salesman in relation to the escrow transaction, the escrow agent shall advise in
4 writing all parties to the escrow transaction of such relationship or affiliation before
5 being employed as escrow agent in connection with such transaction. Such advice
6 shall be on the face of the escrow instructions in not less than eight (8) point bold type.
7 Internet escrow agents may transmit the advice electronically over the Internet to all
8 parties to the escrow transaction.

9 IV.

10 Section 17423 provides in pertinent part:

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

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

20 V.

21 Complainant finds that, by reason of the foregoing, Naomi Estrada also known as Neomi
22 Estrada has violated California Financial Code sections 17403.2(a) and 17414(a)(1) and California
23 Code of Regulations, Title 10, section 1738, 1738.2 and 1740.1, it is in the best interests of the public
24 to bar Naomi Estrada from any position of employment, management or control of any escrow agent.

25 WHEREFORE, IT IS PRAYED that Naomi Estrada also known as Neomi Estrada be barred
26 from any position of employment, management or control of any escrow agent.

27 Dated: April 30, 2007
28 Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
Uche L. Enenwali
Corporations Counsel
Enforcement Division