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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

11 In the Matter of:)
12 THE COMMISSIONER OF BUSINESS) FIRST AMENDED ACCUSATION IN
13 OVERSIGHT,) SUPPORT OF ORDER BARRING LORENA
14 Complainant,) CARRILLO FROM ANY POSITION OF
15 v.) EMPLOYMENT, MANAGEMENT, OR
16 LORENA CARRILLO,) CONTROL OF ANY ESCROW AGENT
17 Respondent.) PURSUANT TO FINANCIAL CODE
18) SECTION 17423
19)

20 The Commissioner of Business Oversight (Commissioner) is informed and believes, and
21 based upon such information and belief, alleges and charges Respondent Lorena Carrillo (Carrillo)
22 as follows:

23 **I.**
24 **Jurisdiction and Venue**

25 1. The Commissioner brings this action under the provisions of Financial Code sections
26 17702, 17414 and 17423 and the rules and regulations promulgated under the California Escrow
27 Law (Fin. Code, § 17000 et seq.) (Escrow Law).

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1 2. The Commissioner is authorized to administer and enforce the Escrow Law and the
2 rules issued under title 10 of the California Code of Regulations (CCR) that regulate the business
3 and activities of escrow agents.

4 **II.** 5 **Statement of Facts**

6 3. Casa Bella Escrow Services Inc. (Casa Bella) is an escrow agent licensed by the
7 Commissioner under the Escrow Law since April 1, 2014. Casa Bella has its principal place of
8 business located at 27349 Jefferson Avenue, Suite 209, Temecula, California 92590.

9 4. As required by Financial Code section 17419, Casa Bella submitted a Statement of
10 Identity and Employment Application (SIEA) for Carrillo on or around March 20, 2017. Carrillo
11 executed the SIEA under penalty of perjury.

12 5. Question 6 of the SIEA specifically asked: “Have you ever been convicted of or
13 pleaded non contendere to a misdemeanor or felony other than traffic violations?” Carrillo answered
14 “no” to Question 6.

15 6. Question 10 of the SIEA specifically asked: “Have you ever been a subject of a
16 bankruptcy or petition in bankruptcy?” Carrillo answered “no” to Question 10.

17 7. The Department’s investigation into the SIEA disclosed that Carrillo made false
18 statements to the Commissioner in violation of Financial Code section 17702. The Department
19 reviewed the Felony Complaint & Notice to Appear filed on December 13, 2012; and the Plea
20 Agreement filed on January 15, 2013 from *The People of the State of California v. Lorena Carrillo*
21 (*People v. Carrillo*), Case No. SWF 1201982, Superior Court of California, County of Riverside.
22 Carrillo failed to disclose that she pled guilty and was convicted of a misdemeanor in violation of
23 Welfare and Institutions Code section 10980, subdivision c, subsection 2, in *People v. Carrillo*.

24 8. Carrillo made another false statement to the Commissioner in violation Financial
25 Code section 17702 stating that she never filed for bankruptcy in Question 10 of the SIEA. The
26 Department reviewed the Chapter 13 Bankruptcy Petition filed on April 1, 2004; and the Chapter 13
27 Bankruptcy Discharge filed on December 10, 2007 from *In re: Jose L. Marquez, Lorena Carrillo (In*
28 *re: Carrillo)*, Case No. 2:04-BK-17477, U.S. Bankruptcy Court, Central District of California, Los

1 Angeles. Carrillo failed to disclose her previous chapter 13 bankruptcy from *In re: Carrillo*.

2 9. From March 2017 to March 2018, Carrillo was the senior escrow officer employed by
3 Casa Bella.

4 10. At Casa Bella, Carrillo was responsible for reviewing daily and monthly reports for
5 any items that needed to be corrected in Casa Bella’s accounts. Carrillo was authorized to clear daily
6 and monthly reports for Escrow File Number 2313-LC, which was opened on or around August 25,
7 2017.

8 11. On May 15, 2018, the Department of Business Oversight (Department) received Casa
9 Bella’s fiscal year-end January 2018 annual audit report (annual report) from its certified public
10 accountant (CPA). The annual report disclosed that a trust account shortage of \$1,000.00 existed
11 from November 2017 through April 2018 in Escrow File Number 2313-LC.

12 12. On or around July 9, 2018, the Commissioner, by and through staff, commenced a
13 regulatory examination of Casa Bella. The Commissioner’s review disclosed Carrillo made
14 numerous posting adjustments to escrow ledgers in an attempt to hide unauthorized disbursements
15 made by Carrillo in Escrow File Number 2313-LC. The unauthorized disbursements of trust funds
16 by Carrillo also caused a trust shortage in violation of Financial Code section 17414, subdivision
17 (a)(1) and CCR sections 1738.1 and 1738.2.

18 13. On or around July 9, 2018, a Corporations Examiner (examiner) reviewed the fee
19 ledger, current status reports, estimated closing statement, final closing statement, trust account
20 statements, bank account statements, annual report filed by the CPA, and Escrow File Number 2313-
21 LC. After the review, the examiner determined Carrillo created an adjustment item that caused a
22 \$1,000.00 trust shortage in Escrow File Number 2313-LC.

23 14. The examiner found on or around October 11, 2017, the final closing funds from First
24 American Title Company were credited to Casa Bella’s trust account ending in 3544.

25 15. The examiner also found during her review that on or around October 12, 2017, all
26 the funds were disbursed by Carrillo and the earned fees of \$2,227.00 were transferred by Carrillo to
27 the Casa Bella fee ledger (FEE1). The examiner found that this caused the ledger balance in Escrow
28 File Number 2313-LC to be \$0.00.

1 16. FEE1 issued trust check number 9444 for \$2,227.00 to Casa Bella on or around
2 October 11, 2017. Citizens Business Bank deposited the funds into Casa Bella’s general company
3 account ending in 2212 on October 16, 2017.

4 17. On October 23, 2017, Jack Curtis (Curtis) sent an email to Jarrod Whitehorn
5 (Whitehorn), the real estate broker, and included Carrillo requesting payment for Curtis Dump Truck
6 & Blackhoe Services (Curtis Dump Truck). That same day, Carrillo sent a reply email to Curtis
7 stating the invoice was paid.

8 18. On October 31, 2017, Whitehorn sent Carrillo an email regarding the missing
9 payment to Curtis Dump Truck.

10 19. The examiner reviewed two copies of an invoice from Curtis Dump Truck found in
11 Escrow File Number 2313-LC. Both copies of invoice number 20973 were dated October 2, 2017 –
12 before the close of escrow on October 10, 2017.

13 20. The first copy of invoice number 20973 showed “total amount due \$1,150.00” but the
14 amount was crossed out and replaced with a hand-written amount of \$1,000.00. “An approved paid
15 stamp” was marked on the first copy of invoice number 20973.

16 21. The second copy of invoice number 20973 showed a “total amount due \$1,000.00”
17 and had a “paid stamp dated 11/15/2017” on the second copy of invoice number 20973.

18 22. The examiner compared the Estimated Closing Statement dated October 5, 2017
19 (Estimated Closing Statement) and the Final Closing Statement dated October 23, 2017 (Final
20 Closing Statement). The examiner noticed the Estimated Closing Statement did not disclose the
21 \$1,000.00 Seller’s credit to Buyer, but the Final Closing Statement did.

22 23. On the Final Closing Statement, the examiner observed the amount due to Seller was
23 \$110,626.48, but Carrillo issued Wire Verification Number 953 on October 12, 2017 in the amount
24 of \$111,626.48 – \$1,000.00 more than the amount stated on the Estimated Closing Statement.

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1 24. On or around November 15, 2017, the following transactions were posted to the
2 ledger:

- 3 a) Carrillo issued receipt number 2652 for \$2,000.00 for the funds noted as
4 “received” from Seller. The examiner could not find a copy of receipt number 2652 in Escrow File
5 Number 2313-LC and there was no \$2,000.00 deposit from Seller credited to the trust account.
- 6 b) \$2,227.00 was transferred from FEE1 to the Escrow File Number 2313-LC.
- 7 c) Check number 9956 from Citizens Business Bank was signed by Carrillo to
8 Curtis Dump Truck and paid by the bank on November 17, 2017.

9 25. On November 16, 2017, receipt number 2652 was canceled. The comment section on
10 the canceled receipt showed “wrong amount” and “never printed” was handwritten on the canceled
11 receipt.

12 26. On or around November 30, 2017, the following transactions were posted to the
13 ledger:

- 14 a) Carrillo issued receipt number 2694 for a \$1,000.00 wire transfer from Seller.
15 A copy of receipt number 2694 was found in Escrow File Number 2313-LC, but no \$1,000.00
16 deposit from Seller was credited to the trust account.
- 17 b) \$2,227.00 was transferred back to the FEE1.
- 18 c) The ledger balance for Escrow File Number 2313-LC was \$0.00.
- 19 d) A \$1,000.00 adjustment item listed as “R#2694 E# 2313-LC Wire T issued on
20 11/20/17 with no deposit at bank” was on the month-end reconciliation report from November 2017
21 through March 2018.

22 27. Adjustment item “R#2694 E# 2313-LC Wire T” caused a \$1,000.00 shortage in the
23 trust account. Carrillo was responsible for reviewing daily and monthly reports for any items that
24 needed to be corrected in Casa Bella’s accounts.

25 28. The \$1,000.00 trust shortage involving Escrow File Number 2313-LC was noted by
26 the CPA in Casa Bella’s annual report in April 2018.

27 29. The examiner requested Casa Bella to produce records concerning the trust shortage
28 in Escrow File Number 2313-LC. Casa Bella gave the examiner a report that indicated licensee

1 interviewed Carrillo for an explanation, but Carrillo stated she could not recall the \$1,000.00 trust
2 shortage in Escrow File Number 2313-LC.

3 30. On or around April 17, 2018, Casa Bella canceled receipt number 2694.

4 31. On or around April 30, 2018, Casa Bella deposited general account check number
5 2212 in the amount of \$1,000.00 into the trust account and issued receipt number 3145.

6 32. Casa Bella failed to report the \$1,000.00 trust shortage that existed from November
7 2017 through April 2018 in Escrow File Number 2313-LC to the Department and Escrow Agents'
8 Fidelity Corporation.

9 **III.**
10 **Applicable Statues**

11 33. Financial Code section 17702, provides:

12 It is unlawful for any person to willfully make any untrue statement of
13 material fact in any application, notice, or report filed with the
14 commissioner under this division or the regulations issued thereunder,
15 or to willfully omit any material fact which is required to be stated
16 in any application, notice, or report.

16 34. Financial Code section 17414, provides in pertinent part:

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

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

23 35. Financial Code section 17423, provides:

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

(1) That the censure, suspension, or bar is in the public interest and
that the person has committed or caused a violation of this division or
rule or order of the commissioner, which violation was either known

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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.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense specified in subdivision (b) of Section 17414.1, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any escrow processing activities, including disbursing any trust funds in the escrow agent’s possession, custody or control, and the financial institution holding trust fluids shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

(d) Fidelity Corporation shall disclose to all licensees the identity of persons who have been censured, suspended, or barred from any position of employment, management, or control.

(e) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed escrow agent and from engaging in any business activity on the premises where a licensed escrow agent is conducting escrow business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal escrow transactions processed by a licensed escrow agent.

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(f) This section shall apply to any violation, conviction, plea, or judgment occurring at any time prior to and after the enactment of this section.

(g) The provisions of Section 17414.1 exempting convictions for which a person has obtained a certificate of rehabilitation from the prohibition against serving as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, shall not apply to permit the reinstatement of any person barred by the commissioner pursuant to this section, nor to prohibit the commissioner from bringing any action pursuant to this section.

(h) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

36. CCR section 1738.1 provides:

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

37. CCR 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.

IV.
Prayer

The Commissioner finds that, by reason of the foregoing Carrillo violated Financial Code section 17702, Financial Code section 17414, subdivision (a)(1) and CCR sections 1738.1 and 1738.2 and grounds exist to bar her from any position of employment, management, or control of any escrow agent.

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WHEREFORE, IT IS PRAYED that under Financial Code section 17423, Carrillo be barred from any position of employment, management, control or any escrow agent.

Dated: February 11, 2019
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Vanessa T. Lu
Counsel
Enforcement Division