

1 STATE OF CALIFORNIA  
2 BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
3 DEPARTMENT OF BUSINESS OVERSIGHT

4 To: ARCS Bank & Trust  
5 Alejandro Reyes Cruz aka Alejandro Cruz Reyes  
6 4 Embarcadero Center Suite 1400  
7 San Francisco, California 94111

8 CEASE AND DESIST ORDER  
9 (For violations of Financial Code section 560, 561, 562)

10 The Commissioner of Business Oversight (Commissioner)<sup>1</sup> finds that:

11 1. At all relevant times, ARCS Bank & Trust (ARCS) was a business (form unknown)  
12 with its principal place of business located at 4 Embarcadero Center Suite 1400, San Francisco,  
13 California 94111.

14 2. At all relevant times herein, Alejandro Reyes Cruz aka Alejandro Cruz Reyes was  
15 the founder and organizer of ARCS Banks & Trust.

16 3. At all relevant times, ARCS maintained a website at arcsbankandtrust.com. The  
17 website displayed various written descriptions of its business and the services it offered, such as:

18 a. “[m]anaging your finances is easy when you partner with ARCS Bank & Trust in  
19 Oakland, CA. We offer a wide variety of financial services custom-tailored to your specific  
20 needs. Be it for personal or business purposes, you can count on our team to present you  
21 with exceptional financial services and products. We also sell prepaid credit cards. Visit us  
22 today, and let’s start banking!”

23 b. Under the headline, “Inquire About Our Financial Services” ARCS states “Here at  
24 ARCS Bank & Trust, we think of ourselves as more than just your typical bank – we are  
25 your dependable financial partner.”

26  
27 <sup>1</sup> The Department of Business Oversight (DBO) is responsible for enforcing provisions of the California Financial Code  
28 commencing at section 550, and is authorized to pursue administrative actions and remedies against persons who violate those provisions.

1 c. The logos of Commerce Bank and the FDIC<sup>2</sup> appears on the website, under the  
2 heading “Inquire About Our Financial Services.” The logos appear to have been  
3 photoshopped onto the page. The FDIC logo contains the wording “Backed by the full faith  
4 and credit of the United States government” and “Each depositor insured to at least  
5 \$250,000.”

6 d. Written on the on the first page of its website are the following terms:

- 7 · Globally Recognized VISA Access
- 8 · Banking the Alternative Way

9 e. The ARCS website offers Visa and Mastercard cards for a fee of \$9.99, as well as  
10 offering other prepaid cards.

11 4. Financial Code section 560 provides, “No person who has not received a certificate  
12 from the commissioner authorizing it to engage in the banking business shall solicit or receive  
13 deposits, issue certificate of deposits with or without provision for interest, make payments on  
14 checks, or transact business in the way or manner of a bank or trust company.”

15 5. Financial Code section 561 provides: “No person who has not received a certificate  
16 from the commissioner authorizing it to engage in the banking business shall . . . make use of or  
17 circulate any letterheads, billheads, blank notes, blank receipts, certificates, or circulars, or any  
18 written or printed paper, whatever, having thereon any artificial or corporate name or other words  
19 indicating that the business is the business of a bank or trust company, or transact business in a way  
20 or manner as to lead the public to believe that its business is that of a bank or trust company, except  
21 to the extent expressly authorized by this division.”

22 6. Financial Code section 562 provides, “No person who has not received a certificate  
23 from the commissioner authorizing it to engage in the banking business shall transact business  
24 under any name or title that contains the word “bank” or “banker” or “banking” . . . or “trust” . . .  
25 or act or advertise in any manner that indicates that the business is the business or a bank or trust  
26 company. . . .”

27 \_\_\_\_\_  
28 <sup>2</sup>Both the FDIC (Federal Deposit Insurance Corporation) and Commerce Bancshares (the Kansas City, Missouri holding company operating branches of Commerce Bank) advised the Department of Business Oversight (Department) that they have not authorized ARCS to use their respective logos. Additionally, the FDIC wrote to ARCS and demanded that ARCS stop using the FDIC logo.

1           7.       The Commissioner has not issued ARCS a certificate authorizing them to engage in  
2 the banking business in this State or to transact business under any name or title that contains the  
3 words “bank” or “banking.”

4           8.       Pursuant to Financial Code section 567, “If the commissioner finds that a person has  
5 conducted, or that there is reasonable cause to believe that a person is about to conduct, business  
6 that requires a license issued by the commissioner and that person has not been issued the required  
7 license, the commissioner may, without any prior notice or hearing, order the person to cease and  
8 desist from conducting any unauthorized business unless and until the person is issued a license to  
9 engage in appropriate license business.”

10           Based on the foregoing findings, the Commissioner is of the opinion that ARCS Bank &  
11 Trust and Alejandro Reyes Cruz aka Alejandro Cruz Reyes engaged in the business of soliciting or  
12 receiving deposits or transacted business in the way or manner of a bank or trust company, without  
13 first obtaining a certificate from the Commissioner authorizing it to engage in the banking business  
14 in this state, in violation of Financial Code section 560.

15           The Commissioner is of the further opinion that ARCS Bank & Trust and Alejandro Reyes  
16 Cruz aka Alejandro Cruz Reyes have made use of or circulated written words indicating that their  
17 business is the business of a bank, or have transacted business in a way or manner as to lead the  
18 public to believe that its business is that of a bank, without first obtaining a certificate from the  
19 Commissioner authorizing it to engage in the banking business in this state, in violation of Financial  
20 Code section 561.

21           The Commissioner is of the further opinion that ARCS Bank & Trust and Alejandro Reyes  
22 Cruz aka Alejandro Cruz Reyes transacted business under a name that contains the word “banking”  
23 or acted or advertised in a manner that indicates that their business is the business of a bank, without  
24 first obtaining a certificate from the Commissioner authorizing it to engage in the banking business  
25 in this state, in violation of Financial Code section 562.

26           Pursuant to Finance Code section 567, ARCS Bank & Trust and Alejandro Reyes Cruz aka  
27 Alejandro Cruz Reyes are hereby ordered to cease and desist from engaging in the business of  
28 soliciting or receiving deposits or transacted business in the way or manner of a bank or trust

1 company, and/or making use of or circulating written words indicating that their business is the  
2 business of a bank, or transacting business in a way or manner as to lead the public to believe that its  
3 business is that of a bank, and/or transacting business under a name that contains the word “banking”  
4 or acting or advertising in a manner that indicates that their business is the business of a bank,  
5 without first obtaining a certificate from the Commissioner authorizing them to engage in the banking  
6 business in this state, or otherwise being exempt.

7 Furthermore, pursuant to Finance Code section 567, ARCS Bank & Trust and Alejandro  
8 Reyes Cruz aka Alejandro Cruz Reyes are hereby ordered to cease and desist from the unauthorized  
9 use of the “FDIC” or “Commerce Bank” logos, without first obtaining the express written  
10 permission of those entities.

11 This Order is necessary, in the public interest, for the protection of consumers and consistent  
12 with the purposes, policies and provision of the California Financial Institutions Law.

13 Dated: April 16, 2019  
14 San Francisco, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

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16  
17 By \_\_\_\_\_  
18 Mary Ann Smith  
19 Deputy Commissioner  
20 Enforcement Division  
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