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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

13 In the Matter of:	)	OAH CASE NO.: 2019090948
)	
14 THE COMMISSIONER OF BUSINESS	)	ESCROW LICENSE NO.: 963-0348
15 OVERSIGHT,)	
	)	FIRST AMENDED ACCUSATION
16 Complainant,)	
	)	Hearing Dates: May 18-19, 2020
17 v.	)	Hearing Time: 9:00 a.m.
	)	Location: OAH Los Angeles
	)	320 W. 4th Street
19 HACIENDA ESCROW CORPORATION and	)	Sixth floor, Suite 630
20 RONALD BRYAN FORNO,	)	Los Angeles, CA 90013-2344
	)	ALJ: Ji-Lan Zang
21 Respondents.)	
)	

22 Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), is informed
23 and believes, and based upon such information and belief, alleges and charges Respondents Hacienda
24 Escrow Corporation (Hacienda) and Ronald Bryan Forno (Forno) (collectively, Respondents) as
25 follows.

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1 I.

2 **Introduction**

3 1. The Commissioner seeks to vacate and set aside the stay order imposed under
4 the August 1, 2019 adopted decision issued in the matter of the *Commissioner v. Hacienda*
5 *Escrow, Inc. et al.*, Office of Administrative Hearings (OAH) case number 2019010464 (Adopted
6 Decision) and revoke the escrow agent's license issued to Hacienda and bar its owner and escrow
7 manager, Forno, from any position of employment, management, or control of any escrow agent.

8 2. The Commissioner found Respondents violated the Financial Code and its regulations
9 by accepting new escrow business while Hacienda was under the Commissioner's November 7, 2018
10 order to discontinue escrow activities (Order to Discontinue). The Order to Discontinue explicitly
11 prohibited Hacienda from accepting any new escrow business while the order was in effect (a 20-day
12 period from November 9 through November 29, 2018), but Respondents accepted approximately 58
13 new escrows during that time.

14 3. Hacienda sought to conceal from the Commissioner its acceptance of new escrow
15 business during the 20-day suspension period by omitting or manipulating certain entries in its
16 manual escrow log and other escrow-related records.

17 4. Finally, Hacienda, by and through Forno, placed Forno's wife in control of Hacienda's
18 trust, general, and money market accounts and designated her as Hacienda's owner, escrow officer,
19 and operations manager. But a review of the Department's and the Escrow Agent's Fidelity
20 Corporation's (EAFC)¹ records and files fails to show Hacienda ever submitted Forno's wife's
21 application and fingerprints to the Department and EAFC. Forno's wife has not been cleared by the
22 Department or the EAFC to act as Hacienda's owner, employee, or person authorized to disburse
23 trust funds, however, as she has never satisfied the bonding requirements of the Financial Code nor
24 undergone the necessary criminal background check to hold such positions of trust with the licensed
25 escrow agent.

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28 ¹ The EAFC is the statutory non-profit mutual benefit corporation and statutory fidelity indemnitor for each
licensed member escrow agent.

1 5. Because Respondents violated the Financial Code and an order of the Commissioner,
2 grounds exist to revoke Hacienda’s escrow agent’s license and to bar Forno under the Financial Code
3 and Adopted Decision.

4 **II.**

5 **Jurisdiction**

6 6. The Commissioner has jurisdiction over the licensing and regulation of persons and
7 entities engaged in the business of receiving escrows for deposit or delivery under the Escrow Law
8 (Fin. Code, § 17000 et seq.) (Escrow Law). The Commissioner is authorized to administer and
9 enforce the Escrow Law and the rules and regulations promulgated in title 10 of the California Code
10 of Regulations (CCR).

11 7. The Commissioner brings this action under the Escrow Law and Adopted Decision to
12 revoke Hacienda’s escrow agent’s license pursuant to Financial Code section 17608 and to bar Forno
13 from any position of employment, management, or control of any escrow agent pursuant to Financial
14 Code section 17423.

15 **III.**

16 **Statement of Facts**

17 8. Hacienda, a California corporation, is an escrow agent licensed by the Commissioner
18 under license number 963-0348. Hacienda has its principal place of business located at 1131 West
19 6th Street, Suite 270, Ontario, California.

20 9. Forno is Hacienda’s owner, president, director, escrow manager, and an escrow officer
21 employed by the company.

22 10. Angelica M. Forno, aka Angelica Marcela Torres Ulloa, Angelica Marcella Torres,
23 and Angie Forno (Angie Forno), is Forno’s wife. Angie Forno is the authorized signer designated on
24 Hacienda’s trust, general, and money market accounts.

25 **Order to Discontinue Violations**

26 11. The Commissioner began a regulatory examination of Hacienda’s business on August
27 2, 2017.

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1 12. The Commissioner’s examination disclosed multiple violations of the Escrow Law,
2 including Hacienda’s failure to timely reconcile its trust account in violation of Financial Code
3 section 17404 and CCR section 1732.2; fraudulent checks drawn on the trust account by third parties
4 in violation of Financial Code section 17414, subdivision (a)(1); Hacienda’s failure to timely provide
5 the Commissioner with books and records necessary to complete the regulatory examination in
6 violation of Financial Code section 17405, subdivision (b); and unreported employees processing
7 escrows at Hacienda’s licensed location in violation of CCR section 1726.

8 13. As a result of the examination findings, the Commissioner determined Hacienda was
9 operating in such an unsafe and injurious manner as to render further operations hazardous to the
10 public or to customers, and he issued Hacienda the Order to Discontinue.

11 14. Under the Order to Discontinue, the Commissioner demanded Hacienda “immediately
12 discontinue acceptance of any new escrow [] business, and of any money, documents or other
13 property in connection therewith.” (Order to Discontinue at p. 6:10-11.) The Order to Discontinue
14 was to remain in “full force and effect” until the Commissioner ordered otherwise. (*Id.* at p. 6:12.)

15 15. On November 8, 2018, by e-mail, the Commissioner served Hacienda’s counsel with
16 the Order to Discontinue. Hacienda’s counsel acknowledged receiving the Order to Discontinue, and
17 submitted Hacienda’s hearing request and discovery demand by e-mail that same day.

18 16. In her November 8 e-mail requesting a hearing on behalf of the client, Hacienda’s
19 counsel wrote (in reference to the Order to Discontinue):

20 [M]y client emphatically states that he provided much of this requested
21 information to [the examiner] during the investigation. Can you please
22 forward me all that [the examiner] has so that I can see where the holes
are that need to be filled in. *He is eager to comply.* (emphasis added.)

23 17. Respondents had actual notice of the Order to Discontinue on November 8.

24 18. Respondents promptly responded to the Commissioner’s demand to produce books
25 and records and they took certain steps necessary to address the issues identified during the August 2,
26 2017 regulatory exam as described above and in the Order to Discontinue.

27 19. In light of Respondents’ compliance with the Order to Discontinue, the Commissioner
28 set the order aside on November 29, and the parties agreed to take the matter off OAH’s calendar

1 for hearing.

2 20. The Order to Discontinue was in effect from November 9 through November 29,
3 2018.

4 **Adopted Decision**

5 21. The Commissioner’s August 2, 2017 examination also disclosed Forno had disbursed
6 \$10,000.00 in trust funds to his personal bank account on April 5, 2017, and neither Forno nor
7 Hacienda replaced the trust funds Forno took for another 15 months, despite having knowledge of the
8 disbursement. Forno’s unauthorized disbursement of trust funds violated Financial Code section
9 17414, subdivision (a)(1) and caused an actual shortage in Hacienda’s trust account from April 5,
10 2017 until July 23, 2018, when Hacienda replaced the \$10,000.00 from its general account.

11 22. On January 7, 2019, the Commissioner concluded Hacienda’s escrow agent’s license
12 should be revoked and Forno barred from any position of employment, management, or control of
13 any escrow agent, as a result of Forno’s unauthorized disbursement of trust funds, and issued notices
14 of intention and an accusation (Accusation) against Respondents.

15 23. Respondents timely filed their notices of defense under Government Code section
16 11506 for the purpose of requesting an administrative hearing on the allegations set forth in the
17 Accusation, and OAH set the matter for a one-day hearing on February 6, 2019.

18 24. Judge Eileen Cohn conducted the parties’ February 6 hearing. Attorney Jennifer Felten
19 represented Respondents. During the hearing, Forno testified on his own behalf and on behalf of
20 Hacienda. Forno’s testimony confirmed that no one at Hacienda had decision making authority above
21 him and that he was aware of what was going on at the business at all times. The court closed the
22 record on February 6.

23 25. On March 8, Judge Cohn reopened the record and requested additional briefing on the
24 meaning of “reckless” under Financial Code section 17414, subdivision (a)(1) and whether any order,
25 bar, or suspension had been imposed on respondents pending the Department’s final decision.

26 26. On April 22, Judge Cohn issued her proposed decision. Under the proposed decision,
27 Judge Cohn concluded Forno had recklessly disbursed \$10,000.00 in trust funds within the meaning
28 of the statute and regulations and cause existed to revoke Hacienda’s escrow agent’s license and to

1 bar Forno. (See Adopted Decision at p. 8, ¶ 7.(c).) But under Government Code section 11519,
2 subdivision (b), Judge Cohn stayed the execution of the revocation and bar, and placed Respondents
3 on probation for a period of 18 months. (Adopted Decision at p. 10, ¶¶ 9 and 10.)

4 27. Judge Cohn further ordered that should Respondents violate the terms of the Adopted
5 Decision “or otherwise violate[] the Financial Code or its regulations, the Commissioner, after notice
6 to respondents and an opportunity to be heard, may, in [his] discretion, vacate and set aside the stay
7 order and impose the revocation of Hacienda’s escrow license and[] the bar issued to Forno.”
8 (Adopted Decision at p. 11, ¶ 5.)

9 28. On May 23, the Commissioner served Respondents with the 30-day decision package,
10 which included a copy of Judge Cohn’s proposed decision and a cover letter informing Respondents
11 that the Commissioner would issue his final decision in the matter by August 1.

12 29. Under Government Code section 11517, subdivision (c)(2)(C), on August 1, the
13 Commissioner adopted the proposed decision, serving a copy of the Adopted Decision on the
14 Respondents.

15 30. The Adopted Decision became effective on August 31, and Respondents remain on
16 probation and subject to the terms set forth in the Adopted Decision.

17 **Grounds to Impose Revocation and Bar – Violations of Financial Code and Regulations**
18 ***Respondents Accepted New Escrow Business While the Order to Discontinue Was in Effect***

19 31. An escrow agent must file its annual audit report (containing audited financial
20 statements and other information) through its CPA within 105 days of the close of the licensee’s
21 fiscal year-end. (Fin. Code, § 17406, subdivision (a).) Hacienda’s fiscal year-end is December 31,
22 and the company’s 2018 annual audit report was due to the Commissioner by April 15, 2019.

23 32. On May 13, Hacienda filed its December 31, 2018 annual audit report through its
24 independent CPA. Hacienda’s report was 28 days late.

25 33. The Commissioner’s review of Hacienda’s December 31, 2018 annual audit report
26 showed Respondents had accepted new escrow business during the 20-day period the Order to
27 Discontinue was in effect in violation of Financial Code section 17415, as follows.
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1 34. Hacienda provided a copy of its trial balance with the December 31, 2018 annual audit
2 report.

3 35. Hacienda's trial balance records the escrow file number, first activity date, last activity
4 date, and escrow balance. The trial balance by escrow showed Hacienda had opened at least 10 new
5 escrow files during the period November 9 through November 29, 2018, the same 20-day period the
6 Order to Discontinue was in effect.

7 36. On July 18 and 19, the Commissioner's examiner conducted a special examination of
8 Hacienda's books and records to confirm Respondents had accepted new escrow business during the
9 20-day period the Order to Discontinue was in effect.

10 37. The examiner obtained a copy of Hacienda's manual escrow log as part of the special
11 examination. Hacienda's manual escrow log records the escrow file number, the escrow officer,
12 property address, escrow opening date, and a reference name.

13 38. Escrow agents issue escrow file numbers consecutively. According to Hacienda's
14 manual escrow log, on November 8, 2018, the same day Respondents received the Order to
15 Discontinue, Hacienda assigned escrow number 18-15145-BF to the last file opened that day. The
16 very next entry, after escrow file number 18-15145-BF, was an entry for escrow file number 18-
17 15146-BF, but the entry fails to record an escrow file opening date. The next entry to record an
18 escrow file opening date is an entry for November 30 – escrow file number 18-15204-BF.

19 39. Between November 9 and November 29, the manual escrow log records 58 new
20 escrows, but Hacienda's log fails to record the escrow file opening date for all 58 entries. Forno is the
21 escrow officer listed in all 58 escrow transactions.

22 40. The Commissioner's examiner concluded the 58 files recorded in Hacienda's manual
23 escrow log were opened during the 20-day suspension period because Hacienda's trial balance shows
24 opening dates for those same files during the 20-day suspension period. For example, Hacienda's trial
25 balance records escrow file number 18-15176-BF as having been opened on November 15. But
26 Hacienda's manual escrow log shows a blank opening date entry for that same file, escrow file
27 number 18-15176-BF.

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1 41. Hacienda's failure to record the escrow file opening date in the manual escrow log
2 only occurs during the period November 9 through 29, the same 20-day period the Order to
3 Discontinue was in effect.

4 ***Hacienda Made Material Misstatements in its Books and Records***

5 42. Financial Code section 17414, subdivision (a)(2) prohibits any person subject to the
6 Escrow Law, including escrow officers, agents, and employees, from knowingly or recklessly making
7 any misstatement or omission to state a material fact, in writing, in escrow books, accounts, files,
8 reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

9 43. Hacienda, as the escrow agent, violated Financial Code section 17414, subdivision
10 (a)(2) by knowingly or recklessly failing to record the opening date for the 58 escrow files reflected
11 in Hacienda's manual escrow log.

12 44. To verify the opening date for the 58 escrow files, on or about July 18, the examiner
13 requested a copy of Hacienda's status report for the month of November 2018. The status report
14 includes the receipts and disbursements for all escrows active during the time the report was printed.
15 The examiner reviewed the report and requested at least three of the 58 escrow files opened during
16 the 20-day suspension period.

17 45. The examiner concluded Respondents opened the following three escrow files while
18 the Order to Discontinue remained in effect.

19 ***Escrow File Number 18-15187-BF***

20 46. Hacienda opened escrow file number 18-15187-BF on November 19, 2018, according
21 to the company's status report (Hacienda's manual escrow log fails to record the file opening date).
22 Forno was the assigned escrow officer.

23 47. On November 15, the buyer in the escrow submitted an offer to purchase the property.
24 On November 18, the seller submitted a counteroffer, which the buyer accepted that same day. The
25 parties signed a California Residential Purchase Agreement and Joint Escrow Instructions (purchase
26 agreement) on November 19. The purchase agreement the parties signed on November 19 designates
27 Hacienda as the escrow agent.
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1 48. Forno, on behalf of Hacienda, signed the escrow holder acknowledgment contained in
2 the purchase agreement and assigned the transaction escrow file number 18-15187-BF.

3 49. The purchase agreement indicates the buyer's earnest money deposit was to be
4 \$2,000.00. The seller's counteroffer confirmed the earnest money deposit was to be \$2,000.00.

5 50. On November 19, Hacienda issued an Escrow Acceptance, Instructions and General
6 Provisions (escrow instructions) dated November 19, which also confirmed that the buyer's earnest
7 money deposit was \$2,000.00.

8 51. On November 19, Samantha Williams (Williams), an escrow assistant employed by
9 Hacienda and managed by Forno, e-mailed the following message to the escrow parties' transaction
10 coordinator and Forno:

11 Hello there, We will get this going right away!! Please see our wire
12 instructions attached, please advise once [the earnest money deposit]
13 has been sent so we can be on the lookout. We have a group email for
14 all parties in our office who assist with sale transactions, please be sure
to keep resale@haciendaescrowcorp.com CC'ed on all emails. We look
forward to a smooth transaction!!

15 52. The examiner's review of Hacienda's trust account bank statement for the month that
16 ended November 30, 2018 shows on November 21 Hacienda received the buyer's earnest money
17 deposit by wire in the amount of \$2,000.00.

18 53. Under CCR section 1732.1, all receipts must be posted to reflect the actual date of
19 receipt, even though the entry may be made at a later date. Despite having received the buyer's
20 earnest money deposit by wire transfer on November 21, Hacienda issued the buyer a receipt dated
21 November 30, which is one day after the Commissioner set aside the Order to Discontinue.

22 54. Hacienda violated CCR section 1732.1 by failing to properly post the buyer's earnest
23 money deposit receipt in escrow file number 18-15187-BF.

24 55. Based on the examiner's review of escrow file 18-15187-BF, Respondents violated the
25 Order to Discontinue and Financial Code section 17415 by accepting new escrow business while the
26 Order to Discontinue was in effect.

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1 ***Escrow File Number 18-15188-BF***

2 56. Hacienda opened escrow file number 18-15188-BF on November 19, 2018,
3 according to the company's status report (Hacienda's manual escrow log fails to record the file
4 opening date). Forno was the assigned escrow officer.

5 57. On November 19, the buyer submitted an offer to purchase the property. On
6 November 19, the seller submitted a counteroffer, and the buyer accepted the seller's counteroffer
7 that same day. The parties signed a California Residential Purchase Agreement and Joint Escrow
8 Instructions (purchase agreement) on November 19. The purchase agreement the parties signed on
9 November 19 designates Hacienda as the escrow agent.

10 58. Forno, on behalf of Hacienda, signed the escrow holder acknowledgment contained in
11 the purchase agreement.

12 59. The purchase agreement indicates the buyer's earnest money deposit was to be
13 \$3,250.00.

14 60. On November 19, Hacienda issued an Escrow Acceptance, Instructions and General
15 Provisions (escrow instructions) dated November 19, confirming that the earnest money deposit was
16 \$3,250.00.

17 61. On November 20, the broker to the transaction e-mailed the following message to
18 Williams at Hacienda:

19 Good Morning Sam [Williams], attached is a[n] executed [Residential
20 Purchase Agreement] and Counter Offer [*sic*] for the subject property. I
21 am also attaching the prelim I ordered from USA Title and the HOA
22 statement . . . Please send out wire instructions. We are shooting to
close 30 days or sooner so please find out what the lender will need
from the HOA so it can be ordered[.]

23 62. The examiner's review of Hacienda's trust account bank statement for the month that
24 ended November 30, 2018 shows on November 20 Hacienda received the buyer's earnest money
25 deposit by wire in the amount of \$3,250.00.

26 63. Despite having received the buyer's earnest money deposit by wire transfer on
27 November 20, Hacienda issued the buyer a postdated receipt for the earnest money deposit dated
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1 November 30, seven business days after Hacienda received the buyer's funds and one day after the
2 Commissioner set aside the Order to Discontinue.

3 64. Hacienda violated CCR section 1732.1 by failing to properly post the buyer's earnest
4 money deposit receipt in escrow file number 18-15188-BF.

5 65. Based on the examiner's review of escrow file 18-15188-BF, Respondents violated the
6 Order to Discontinue and Financial Code section 17415 by accepting new escrow business while the
7 Order to Discontinue was in effect.

8 ***Escrow File Number 18-15189-BF***

9 66. Hacienda opened escrow file number 18-15189-BF on November 18, 2018, according
10 to the company's status report (Hacienda's manual escrow log fails to record the file opening date).
11 Forno was the assigned escrow officer.

12 67. On November 17, the buyer submitted an offer to purchase the property. On
13 November 18, the seller accepted the buyer's offer. The parties signed a California Residential
14 Purchase Agreement and Joint Escrow Instructions (purchase agreement) on November 18. The
15 purchase agreement the parties signed on November 18 designates Hacienda as the escrow agent.

16 68. The purchase agreement indicates the buyer's earnest money deposit was to be
17 \$3,000.00.

18 69. On November 18, Hacienda issued an Escrow Acceptance, Instructions and General
19 Provisions (escrow instructions) dated November 18, confirming that the earnest money deposit was
20 \$3,000.00.

21 70. The buyer was the remitter of a cashier's check dated November 19 in the amount of
22 \$3,000.00. On November 30, Hacienda posted receipt number 17081 for the buyer's \$3,000.00
23 earnest money deposit. But a review of Hacienda's "Receipt Activity for the period 11/1/2018 to
24 11/30/2018" report shows Hacienda issued receipt numbers 17080 and 17082 on November 27.
25 Receipt number 17081 should have been issued on November 27 (given the sequence of receipt
26 numbers), but Hacienda post-dated the receipt with the November 30 date, which is one day after the
27 Commissioner set aside the Order to Discontinue.

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1 71. Hacienda violated CCR section 1732.1 by failing to properly post the buyer's earnest
2 money deposit receipt in escrow file number 18-15189-BF.

3 72. Based on the examiner's review of escrow file 18-15189-BF, Respondents violated the
4 Order to Discontinue and Financial Code section 17415 by accepting new escrow business while the
5 Order to Discontinue was in effect.

6 ***Respondents Designated Angie Forno as Hacienda's Owner, Employee, and Authorized Trust***
7 ***Account Signer without First Submitting Forno's Application and Fingerprints to the Department***
8 ***for a Criminal Background Check and Clearance***

9 73. The Commissioner obtained copies of signature cards on file with Hacienda's bank on
10 January 24, 2020. The signature cards the Commissioner obtained were signed by Forno in his
11 capacity as Hacienda's owner and dated February 26, 2019 and June 27, 2019. The signature cards
12 disclose Forno designated his wife, Angie Forno, as the authorized signer on Hacienda's trust,
13 general, and money market accounts. The signature cards Forno signed further identify Angie Forno
14 as Hacienda's escrow officer and operations manager.

15 74. The Commissioner's examiner obtained Angie Forno's business card from Hacienda's
16 licensed location. The business card the examiner obtained identifies Angie Forno as Hacienda's
17 owner.

18 75. Based on the examiner's review of the company's signature and business cards, the
19 Commissioner concluded Respondents held Angie Forno out to members of the public as an owner
20 and employee of the business and Hacienda, through Forno, granted Angie Forno access to its trust
21 and general accounts.

22 76. But a review of the Department's and the Escrow Agent's Fidelity Corporation's
23 records fails to disclose any Statement of Identity and Questionnaire (SIQ), employment application,
24 or fingerprint submissions made by Hacienda on behalf of Angie Forno. And the records on file with
25 the Department identify only Forno as an owner of Hacienda.

26 77. Prior to any change in ownership of the escrow agent, or an individual undertaking
27 employment with the escrow agent, or the escrow agent granting an individual access to company
28 trust funds or other moneys, the applicant must fulfill the Escrow Law's bonding requirements,

1 complete a SIQ or employment application, and authorize a criminal background check. The escrow
2 agent is responsible for submitting the applicant's SIQ or employment application and fingerprints to
3 the Department and EAFC. Once the escrow agent submits the applicant's SIQ or employment
4 application and fingerprints, the applicant must undergo a criminal background check and be cleared
5 by the Department and EAFC to act as the escrow agent's owner, employee, or have access to trust
6 moneys in the possession of the escrow agent. (See Fin. Code, §§ 17203.1, 17209, 17209.1, 17212.1,
7 17414.1, 17419, and CCR, § 1726.)

8 78. The Commissioner concluded that Hacienda, through its owner, Forno, permitted
9 Angie Forno to hold herself out to members of the public as Hacienda's owner, escrow officer, and
10 operations manager and granted Angie Forno access to Hacienda's trust, general, and money market
11 accounts prior to fulfilling the bonding requirements under the Escrow Law and submitting Angie
12 Forno's SIQ or application and fingerprints to the Department and EAFC for clearance in violation of
13 Financial Code sections 17203.1, subdivision (a); 17209, subdivisions (g) and (h)(1); 17212.1;
14 17414.1, subdivision (d); 17419; and CCR section 1726, subdivision (a).

15 ***Respondents Made Material Misstatements about Angie Forno***

16 79. The Commissioner determined that Respondents knowingly or recklessly made or
17 caused to be made material misstatements and omissions of material fact in writing – both in
18 documents pertaining to escrow affairs by designating Angie Forno as an owner, escrow officer, and
19 operations manager on Hacienda's business card, and on the signature cards filed with Hacienda's
20 bank in violation of Financial Code section 17414, subdivision (a)(2). The Department and EAFC
21 have not cleared Angie Forno to act in the capacity of Hacienda's owner, escrow officer, or
22 operations manager, but Respondents have nonetheless held Angie Forno out to members of the
23 public as an owner and employee of the business.

24 80. Respondents violated the Financial Code and regulations, and cause therefore exists
25 for the Commissioner to vacate and set aside the stay order to revoke Hacienda's escrow license, and
26 to bar Forno from the escrow industry.

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IV.

Applicable Statutes

81. Financial Code section 17203.1, subdivision (a) provides in pertinent part:

All officers, directors, trustees, and employees of an escrow agent, whether or not compensated, who have access to money or negotiable securities belonging to the escrow agent or in the possession of the escrow agent in the regular discharge of their duties, or persons who draw checks upon the escrow agent or upon the trust funds of the escrow agent in the regular discharge of their duties, before entering upon their duties and throughout the entire term of their office and employment and any subsequent term thereof, shall furnish to the escrow agent a bond indemnifying the escrow agent against loss of money or property. No officer, director, trustee, or employee shall enter upon their duties or have access to money or negotiable securities or draw checks upon the escrow agent or the trust funds of an escrow agent prior to complying with such rules as the commissioner shall adopt with respect to the qualifications of these officers, directors, trustees, or employees to assume their duties.

82. Financial Code section 17209 provides in pertinent part:

(g) An application for a license as an escrow agent filed with the commissioner shall also include a completed statement of identity and questionnaire, as prescribed by the commissioner, for all stockholders, directors, officers, trustees, managers, and other persons participating in the escrow business directly or indirectly compensated by the escrow agent (other than usual and customary employees who file pursuant to subdivision (d) of Section 17414.1 and Section 17419) and shall also include fingerprints and related information for those persons pursuant to subdivision (h). . . . Persons required to file the employment application pursuant to Section 17419 are not required to file the statement of identity and questionnaire described in this section.

(h)(1) The fingerprint images and related information shall be submitted by the commissioner to the Department of Justice, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and information as to the existence of and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) Upon receipt, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history

1 information received from the commissioner pursuant to this section.
 2 The Department of Justice shall review the information returned from
 3 the Federal Bureau of Investigation and compile and disseminate a
 4 response to the commissioner pursuant to subdivision (p) of Section
 11105 of the Penal Code[.]

5 83. Financial Code section 17209.1 provides:

6 Upon the receipt of a proper and complete application for license, and
 7 all required fees, the commissioner shall immediately examine and
 8 investigate all facts connected with the proposal, including but not
 9 limited to its stockholders, directors, officers and managers, proposed
 10 location, and estimated receipts and expenditures.

11 84. Financial Code section 17212.1 provides in pertinent part:

12 All licensees shall notify the commissioner of any changes in
 13 shareholders, directors, officers, trustees, managers, and other persons
 14 participating in the escrow business directly or indirectly compensated
 15 by the escrow agent (other than usual and customary employees who
 16 file pursuant to subdivision (d) of Section 17414.1 and Section 17419),
 17 by filing by certified mail, return receipt requested, for those persons a
 18 statement of identity and questionnaire, as prescribed by the
 19 commissioner for those persons, and fingerprint images and related
 20 information, submitted using the process established by the Department
 21 of Justice for requested state and federal summary criminal history
 22 information[.]

23 85. Financial Code section 17400 provides:

24 The commissioner may from time to time make, amend, and rescind the
 25 rules, forms, and orders that are necessary to carry out the provisions of
 26 this division, and define any terms, whether or not used in this division,
 27 insofar as the definitions are not inconsistent with the provisions of this
 28 division. For the purpose of rules and forms, the commissioner may,
 among other things, classify persons and matters within the
 commissioner's jurisdiction and may prescribe different requirements
 for different classes. The commissioner may, in the commissioner's
 discretion, waive any requirement of any rule or form in situations
 where in his or her opinion the requirement is not necessary in the
 public interest or for the protection of the public.

86. Financial Code section 17406, subdivision (a) provides:

Each licensee shall submit to the commissioner, at the licensee's own
 expense, an audit report containing audited financial statements
 covering the calendar year or, if the licensee has an established fiscal

1 year, then for that fiscal year, within 105 days after the close of the
2 calendar or fiscal year, as applicable. At that time, each licensee shall
3 also file additional relevant information as the commissioner may
require.

4 87. Financial Code section 17414 provides in pertinent part:

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

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

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

14 (b) Any director, officer, stockholder, trustee, employee, or agent of an
15 escrow agent, who abstracts or willfully misappropriates money, funds,
16 trust obligations or property deposited with an escrow agent, is guilty
17 of a felony. Upon conviction, of an offense under this section or similar
18 offenses specified in Chapter 4 (commencing with Section 470),
19 Chapter 5 (commencing with Section 484), or Chapter 6 (commencing
20 with Section 503) of Title 13 of Part 1 of the Penal Code, the court
21 shall, in addition to any other punishment imposed, order the person to
22 make full restitution, first to the escrow agent and then to Fidelity
23 Corporation, to the extent it has indemnified the escrow agent. Nothing
24 in this section shall be deemed or construed to repeal, amend, or impair
25 any existing provision of law prescribing a punishment for such an
26 offense[.]

27 88. Financial Code section 17414.1 provides in pertinent part:

28 (c) On or after January 1, 1992, any person who seeks employment by,
or an ownership interest in, or other participation in the business of a
licensed escrow agent shall, as a condition of obtaining that
employment, interest, or participation, authorize [the EAFC] and the
commissioner, or both, to have access to that person's state and federal
summary criminal history information, as defined in Section 11105 of
the Penal Code, for purposes of determining whether the person has a

1 prior conviction of, or pleaded nolo contendere to, a criminal offense
2 specified in subdivision (b).

3 (d) On or before the 10th day of employment, each escrow agent shall
4 obtain and forward to the commissioner the fingerprint images and
5 related information of persons seeking employment by an escrow
6 agent. The fingerprint images and related information may be
7 submitted by certified mail, return receipt requested, or transmitted
8 electronically, using the process established by the Department of
9 Justice for requesting state and federal summary criminal history
10 information[.]

8 89. Financial Code section 17415 provides:

9 (a) If the commissioner, as a result of any examination or from any
10 report made to him or her, shall find that any person subject to this
11 division is in an insolvent condition, is conducting escrow business in
12 such an unsafe or injurious manner as to render further operations
13 hazardous to the public or to customers, has failed to comply with the
14 provisions of Section 17212.1 or 17414.1, has permitted its tangible net
15 worth to be lower than the minimum required by law, has failed to
16 maintain its liquid assets in excess of current liabilities as set forth in
17 Section 17210, or has failed to comply with the bonding requirements
18 of Chapter 2 (commencing with Section 17200) of this division, the
19 commissioner may, by an order addressed to and served by registered
20 or certified mail or by personal service on such person and on any other
21 person having in his or her possession or control any escrowed funds,
22 trust funds or other property deposited in escrow with said person,
23 direct discontinuance of the disbursement of trust funds by the parties
24 or any of them, the receipt of trust funds, the delivery or recording of
25 documents received in escrow, or other business operations. No person
26 having in his or her possession any of these funds or documents shall
27 be liable for failure to comply with the order unless he or she has
28 received written notice of the order. Subject to subdivision (b), the
order shall remain in effect until set aside by the commissioner in
whole or in part, the person is the subject of an order for relief in
bankruptcy, or pursuant to Chapter 6 (commencing with Section
17621) of this division the commissioner has assumed possession of the
escrow agent.

(b) Within 15 days from the date of 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

1 later date. If no hearing is requested within 15 days after the mailing or
2 service of such notice and none is ordered by the commissioner, the
3 failure to request a hearing shall constitute a waiver of the right to a
4 hearing. Neither the request for a hearing nor the hearing itself shall
5 stay the order issued by the commissioner under subdivision (a).

6 90. Financial Code section 17419 provides in pertinent part:

7 On or after January 1, 1992, any person seeking employment with an
8 escrow agent shall complete an employment application on or before
9 the first day of employment which includes, at least the following
10 information. A copy of the employment application shall be forwarded
11 to the commissioner on or before the first day of the applicant's
12 employment. Persons required to file a statement of identity and
13 questionnaire pursuant to subdivision (g) of Section 17209 or 17212.1
14 are not required to file the employment application set forth in this
15 section[.]

16 91. Financial Code section 17423 provides:

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

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

27 (2) That the person has been convicted of or pleaded nolo contendere to
28 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

1 to this division consents to a later date. If no hearing is requested within
2 15 days after the mailing or service of such notice and none is ordered
3 by the commissioner, the failure to request a hearing shall constitute a
waiver of the right to a hearing.

4 (c) Upon receipt of a notice of intention to issue an order pursuant to
5 this section, the person who is the subject of the proposed order is
6 immediately prohibited from engaging in any escrow processing
7 activities, including disbursing any trust funds in the escrow agent's
8 possession, custody or control, and the financial institution holding
9 trust funds 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.

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

13 (e) Persons suspended or barred under this section are prohibited from
14 participating in any business activity of a licensed escrow agent and
15 from engaging in any business activity on the premises where a
16 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.

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

20 (g) The provisions of Section 17414.1 exempting convictions for which
21 a person has obtained a certificate of rehabilitation from the prohibition
22 against serving as an officer, director, stockholder, trustee, agent, or
23 employee of an escrow agent, or in any position involving any duties
24 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.

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

1 92. Financial Code section 17608 provides in pertinent part:
2 The commissioner may, after notice and a reasonable opportunity to be
3 heard, suspend or revoke any license if he finds that:

4
5 (b) The licensee has violated any provision of this division or any rule
6 made by the commissioner under and within the authority of this
7 division.

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

11 93. CCR 1726 provides in pertinent part:

12 (a) The Commissioner shall be notified in writing by the [EAFC] of the
13 escrow agent's payment to the corporation of the required membership
14 fees for those escrow agents subject to membership pursuant to
15 subdivisions (a) and (c) of Section 17312 of the Financial Code and the
16 escrow agent shall notify the Commissioner, on the form set forth in
17 subdivision (b) furnished by the Commissioner, the names of any
18 officer, director, trustee, employee or other person directly or indirectly
19 compensated by the escrow agent before allowing the person in the
20 regular discharge of his/her duties to have access to moneys or
21 negotiable securities belonging to or in the possession of the escrow
22 agent, or to draw checks upon the escrow agent or the trust funds of the
23 escrow agent[.]

24 94. CCR 1732.1 provides:

25 All receipts and disbursements of moneys shall be posted in the escrow
26 ledger as of the date of such receipts and disbursements, regardless of
27 the date of posting.

28 **V.**

Prayer

The Commissioner finds that, by reason of the foregoing, Hacienda violated Financial Code sections 17203.1, subdivision (a) (by employing Angie Forno without first satisfying the bonding and background check requirements of the Escrow Law); 17209, subdivisions (g) and (h)(1) (by failing to submit the SIQ and fingerprints for Angie Forno); 17212.1 (by failing to notify the Department of the

1 change in ownership of the business); 17414, subdivision (a)(2) (by knowingly or recklessly failing to
2 record escrow file opening dates and by holding Angie Forno out to members of the public as an
3 owner and employee of the business); 17414.1, subdivision (d) (by failing to forward Angie Forno's
4 fingerprint images and related information to the Department); 17415 (by accepting new escrow
5 business while the Order to Discontinue was in effect); 17419 (by failing to submit Angie Forno's
6 employment application); and CCR sections 1726, subdivision (a) (by failing to satisfy Angie
7 Forno's bonding requirements) and 1732.1 (by issuing postdated receipts), and grounds therefore
8 exist to revoke its escrow agent's license under Financial Code 17608 and the Adopted Decision.

9 The Commissioner further finds that Forno violated Financial Code sections 17415 (by
10 accepting new escrow business on behalf of Hacienda while the Order to Discontinue was in effect)
11 and 17414, subdivision (a)(2) (by holding his wife, Angie Forno, out to members of the public as an
12 owner, escrow officer, and operations manager without Angie Forno having received clearance from
13 the Department to act in such capacities) and grounds therefore exist to bar Forno from any position
14 of employment, management, or control of any escrow agent under Financial Code 17423 and the
15 Adopted Decision.

16 WHEREFORE, IT IS PRAYED that:

17 Under Financial Code section 17608 and the Adopted Decision, the escrow agent's license of
18 Hacienda be revoked.

19 Under Financial Code section 17423 and the Adopted Decision, Forno be barred from any
20 position of employment, management, or control of any escrow agent.

21 Dated: February 19, 2020
22 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

23
24 By _____
25 Blaine A. Noblett
26 Senior Counsel
27 Enforcement Division
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