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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. SERGIA MARINA CARDONA, Respondent.	File No.: 963-2473 ACCUSATION

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

I

Respondent Sergia Marina Cardona ("Cardona") is the president and sole shareholder of MS Escrow Services ("MS Escrow"). MS Escrow was an escrow agent licensed by the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the State of California (California Financial Code Section 17000 et seq.) from on or about August 10, 2007 until on or about December 1, 2011 when its escrow agent's license was revoked by the Commissioner. MS Escrow was personally served with the revocation order on or about December 5, 2011. MS Escrow had its principal place of business at 11445 Paramount Boulevard, Suite E, Downey, California 90241.

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II

On or about December 22, 2011, the Commissioner, by and through his staff, visited the former licensed location of MS Escrow to investigate whether MS Escrow was continuing to engage in escrow activities. The Department of Corporations ("Department") examiner noted two individuals working at the location. Thereafter, on or about January 3, 2012, Department staff commenced a special examination of MS Escrow to determine whether MS Escrow engaged in unlicensed escrow activities. The special examination disclosed that MS Escrow had continued to engage in escrow activities after its escrow agent's license was revoked in violation of Financial Code sections 17200 and 17606 in that MS Escrow had opened at least one new escrow and continued working on at least three other open escrows after it was served with the revocation order.

The special examination further revealed that MS Escrow had failed to report an employee since in or about February 2011 in violation of Financial Code sections 17414.1 and 17419, which require a completed statement of identity and employment application ("SIE") along with fingerprints to be submitted for all persons seeking employment with an escrow agent or potential escrow agent, except those required to file a Statement of Identity and Questionnaire (usually officers, directors, owners, managers).

Additionally, the special examination disclosed that MS Escrow, by and through Cardona, on at least thirty-six occasions, had made or caused to be made unauthorized disbursements of trust funds in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. Each of the unauthorized disbursements of trust funds described below also caused a shortage to exist in the trust account in violation of California Code of Regulations, title 10, section 1738.1. These unauthorized disbursements, which commenced on or about March 14, 2011, and continued through at least January 5, 2012, totaled $133,077.39, and are described as follows:

A. Cancellation of Outstanding Trust Checks:

1. On or about October 12, 2011 and December 12, 2011, Cardona made, or caused to be made, at least fifteen (15) unauthorized disbursements of trust funds to RMS Remodeling, a business owned by her son-in-law, Oscar Rolando Portillo Arriaga aka Oscar Rolando Portillo

("Portillo") from thirteen (13) escrows totaling $6,599.08 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2 by canceling, or causing to be canceled, outstanding trust checks and reissuing or causing the checks to be reissued to RMS Remodeling. These specific unauthorized disbursements are as follows:

(a) On or about October 12, 2011, in escrow number 1135, Cardona cancelled, or caused to be canceled, trust check number 1584 issued on May 16, 2008 payable to Credit Management in the amount of $232.00, and then issued, or caused to be issued, trust check number 3490 to RMS Remodeling for the same amount.

(b) On or about October 12, 2011, in escrow number 1116, Cardona cancelled, or caused to be canceled, trust check number 1607 issued on June 24, 2008 payable to the buyer in the amount of $1,361.75, and then issued, or caused to be issued, trust check number 3491 to RMS Remodeling for the same amount. The $1,361.75 paid to RMS Remodeling was a refund to the buyer from title remitted to MS Escrow on or about June 20, 2008.

(c) On or about October 12, 2011, in escrow number 1435, Cardona cancelled, or caused to be canceled, trust check number 1979 issued on October 6, 2009 payable to a Tony Reynosa in the amount of $500.00, and then issued, or caused to be issued, trust check number 3492 to RMS Remodeling for the same amount.

(d) On or about October 12, 2011, in escrow number 1448, Cardona cancelled, or caused to be canceled, trust check number 2021 issued on November 2, 2009 payable to Discover in the amount of $152.00, and then issued, or caused to be issued, trust check number 3493 to RMS Remodeling for the same amount.

(e) On or about October 12, 2011, in escrow number 1448, Cardona cancelled, or caused to be canceled, trust check number 2022 issued on November 2, 2009 payable to Ernie Iriarte, a real estate agent in the transaction, in the amount of $1,500.00, and then issued, or caused to be issued, trust check number 3494 to RMS Remodeling for the same amount.

(f) On or about October 12, 2011, in escrow number 1507, Cardona cancelled, or caused to be canceled, trust check number 2163 issued on December 30, 2009 payable to Realco Partners, LLC in the amount of $98.12, and then issued, or caused to be issued, trust check number 3495 to

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RMS Remodeling for the same amount.

(g) On or about October 12, 2011, in escrow number 1513, Cardona cancelled, or caused to be canceled, trust check number 2243 issued on February 10, 2010 payable to a Tony Reynoso in the amount of $500.00, and then issued, or caused to be issued, trust check number 3496 to RMS Remodeling for the same amount.

(h) On or about October 12, 2011, in escrow number 1538, Cardona cancelled, or caused to be canceled, trust check number 2327 issued on April 1, 2010 payable to the buyers in the amount of $500.00, and then issued, or caused to be issued, trust check number 3497 to RMS Remodeling for the same amount.

(i) On or about October 12, 2011, in escrow number 1568, Cardona cancelled, or caused to be canceled, trust check number 2468 issued on May 7, 2010 payable to Bartline & Co. in the amount of $300.00, and then issued, or caused to be issued, trust check number 3498 to RMS Remodeling for the same amount.

(j) On or about October 12, 2011, in escrow number 1581, Cardona cancelled, or caused to be canceled, trust check number 2553 issued on May 26, 2010 payable to the buyer in the amount of $171.30, and then issued, or caused to be issued, trust check number 3499 to RMS Remodeling for the same amount.

(k) On or about December 12, 2011, in escrow number 1488, Cardona cancelled, or caused to be canceled, trust check number 3330 issued on March 14, 2011 payable to Discovery in the amount of $900.00, and then issued, or caused to be issued, trust check number 3515 to RMS Remodeling for the same amount.

(l) On or about December 12, 2011, in escrow number 1488, Cardona cancelled, or caused to be canceled, trust check number 3331 issued on March 14, 2011 payable to AMEX in the amount of $39.00, and then issued, or caused to be issued, trust check number 3516 to RMS Remodeling for the same amount.

(m) On or about December 12, 2011, in escrow number 1723, Cardona cancelled, or caused to be canceled, trust check number 3401 issued on May 17, 2011 payable to a David M. Morales in the amount of $205.00, and then issued, or caused to be issued, trust check number 3517

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to RMS Remodeling for the same amount.

(n) On or about December 12, 2011, in escrow number 1044, Cardona cancelled, or caused to be canceled, trust check number 1107 issued on January 3, 2008 payable to the seller in the amount of $49.95, and then issued, or caused to be issued, trust check number 3518 to RMS Remodeling for the same amount.

(o) On or about December 12, 2011, in escrow number 1804, Cardona cancelled, or caused to be canceled, trust check number 3140 issued on January 11, 2011 payable to Natural Hazard Report in the amount of $89.95, and then issued, or caused to be issued, trust check number 3519 to RMS Remodeling for the same amount.

B. Misappropriating Escrow Balances:

1. On or about December 8, 2011 and January 5, 2012, MS Escrow, by and through Cardona, made, or caused to be made, five (5) unauthorized disbursements of dormant trust funds totaling $5,204.00 by disbursing the remaining escrow balances in five (5) escrows to RMS Remodeling in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These specific unauthorized disbursements are as follows:

(a) On or about December 8, 2011, in escrow number 1529, Cardona issued, or caused to be issued, trust check number 3511 in the amount of $1,000.00 to RMS Remodeling. The $1,000.00 paid to RMS Remodeling represented the entire balance for Escrow number 1529 and was a deposit made by the buyer on or about November 16, 2010.

(b) On or about December 8, 2011, in escrow number 1839, Cardona issued, or caused to be issued, trust check number 3510 in the amount of $2,000.00 to RMS Remodeling. The $2,000.00 paid to RMS Remodeling represented the entire balance for Escrow number 1839 and was a deposit made by the buyer on or about March 4, 2011.

(c) On or about January 5, 2012, in escrow number 1279, Cardona issued, or caused to be issued, trust check number 3532 in the amount of $1,000.00 to RMS Remodeling. The $1,000.00 paid to RMS Remodeling represented the entire balance for Escrow number 1279 and was a deposit made by the buyer on or about February 16, 2011.

(d) On or about January 5, 2012, in escrow number 1749, Cardona issued or caused to be

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issued, trust check number 3533 in the amount of $1,000.00 to RMS Remodeling. The $1,000.00 paid to RMS Remodeling represented the entire balance for Escrow number 1749 and was a deposit made by the buyer on or about October 15, 2010.

(e) On or about January 5, 2012, in escrow number 1651, Cardona issued, or caused to be issued, trust check number 3534 in the amount of $204.00 to RMS Remodeling. The $204.00 paid to RMS Remodeling represented the entire balance for Escrow number 1651 and was the remaining funds left after close of escrow, which closing occurred on or about January 26, 2011.

C. Additional Unauthorized Disbursements:

1. In addition to the above, Cardona made, or caused to be made, a further sixteen (16) unauthorized disbursements from six escrows totaling $120,274.31 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. The additional unauthorized disbursements are described as follows:

(a) On or about March 14, 2011, in escrow number 1488, Cardona issued, or caused to be issued, trust check number 3333 in the amount of $45,562.32 to RMS Remodeling.

(b) On or about June 3, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3412 in the amount of $5,000.00 to RMS Remodeling. The $5,000.00 paid to RMS Remodeling was part of the $290,000.00 in deposits made by the buyer on or about May 31, 2011 and June 2, 2011.

(c) On or about June 13, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3421 in the amount of $8,000.00 to RMS Remodeling. The $8,000.00 paid to RMS Remodeling was part of the $290,000.00 in deposits made by the buyer on or about May 31, 2011 and June 2, 2011.

(d) On or about August 30, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3459 in the amount of $3,000.00 to her daughter, Patricia Portillo ("P. Portillo"). The $3,000.00 paid to P. Portillo was part of the $290,000.00 in deposits made by the buyer on or about May 31, 2011 and June 2, 2011.

(e) On or about September 8, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3469 in the amount of $2,800.00 to a Francisca Martinez. The

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$2,800.00 paid to Francisca Martinez was part of the remaining $4,000.00 on deposit from the buyer's May 31, 2011 and June 2, 2011 deposits. Escrow 1891, had only $4,000.00 remaining on deposit at the time of this unauthorized disbursement as the buyer and seller had executed instructions to release $270,000.00 of the $290,000.00 deposit back to the buyer due to the inactivity of the escrow, with an agreement that the buyer would re-deposit the funds once the escrow became active again, and the other $16,000.00 of the deposit had been disbursed to Cardona's family members as described in paragraphs C. 1. (b) – (d) above.

(f) On or about September 9, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3470 in the amount of $1,200.00 to her employee, Haydee Vasquez. The $1,200.00 paid to Haydee Vasquez represented the remaining $1,200.00 on deposit from the buyer's May 31, 2011 and June 2, 2011 deposits.

(g) On or about November 17, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3501 in the amount of $5,000.00 to RMS Remodeling. The $5,000.00 paid to RMS Remodeling was part of the $293,000.00 deposited back into escrow by the buyer on or about November 17, 2011.

(h) On or about November 18, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3502 in the amount of $5,000.00 to Luis Paredes ("Paredes"), a real estate agent located in the same building where MS Escrow used to be located. The $5,000.00 paid to Paredes was part of the $293,000.00 deposited back into escrow by the buyer on or about November 17, 2011. According to the escrow file, Paredes was not a real estate agent in the transaction.

(i) On or about November 21, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3503 in the amount of $4,000.00 to P. Portillo. The $4,000.00 paid to P. Portillo was part of the $293,000.00 deposited back into escrow by the buyer on or about November 17, 2011.

(j) On or about November 23, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3507 in the amount of $11,500.00 to RMS Remodeling. The $11,500.00 paid to RMS Remodeling was part of the $293,000.00 deposited back into escrow by the

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buyer on or about November 17, 2011.

(k) On or about November 23, 2011, in escrow number 1891, Cardona issued, or caused to be issued, trust check number 3508 in the amount of $4,784.16 to P. Portillo. The $4,784.16 paid to P. Portillo was part of the $293,000.00 deposited back into escrow by the buyer on or about November 17, 2011.

(l) On or about September 20, 2011, in escrow number 1907, Cardona issued, or caused to be issued, trust check number 3484 in the amount of $8,720.71 to RMS Remodeling.

(m) On or about December 21, 2011, in escrow number 1916, Cardona issued, or caused to be issued, trust check number 3522 in the amount of $5,000.00 to Paredes. The $5,000.00 paid to Paredes was a deposit made by the buyer on or about November 22, 2011. According to the escrow file, Paredes was not a real estate agent in the transaction.

(n) On or about December 16, 2011 and December 21, 2011, in escrow number 1918, Cardona issued, or caused to be issued, trust check numbers 3520 and 3521 each in the amount of $2,500.00 to Paredes. The $5,000.00 paid to Paredes was a deposit made by the buyer on or about December 1, 2011. According to the escrow file, Paredes was not a real estate agent in the transaction.

(o) On or about January 12, 2012, in escrow number 1919, Cardona issued, or caused to be issued, wire number 261 in the amount of $5,707.12 to RMS Remodeling. The $5,707.12 paid to RMS Remodeling was, according to the closing statement, monies due the listing agent on the property.

III

California Financial Code section 17423 provides in pertinent part:

> (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, . . . bar from any position of employment, management, or control any escrow agent, or any other person, if the commissioner finds either of the following:
>
> (1) That the . . . 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 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.

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IV

Complainant finds that, by reason of the foregoing, Respondent Sergia Marina Cardona has violated Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738, 1738.1, and 1738.2 and it is in the best interests of the public to bar Respondent Sergia Marina Cardona from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that Respondent Sergia Marina Cardona be barred from any position of employment, management or control of any escrow agent.

Dated: May 9, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Judy L. Hartley
Senior Corporations Counsel

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