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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE ) File No.: 963-0873  
CALIFORNIA CORPORATIONS )  
11 COMMISSIONER, )  
12 Complainant, ) **ACCUSATION**  
13 )  
14 v. )  
15 DEPENDABLE ESCROW CO.; GEORGE )  
REYES, as an individual; MARY REYES, as an )  
16 individual; MICHELLE D. REYES, as an )  
individual, )  
17 Respondents. )  
18 )  
19 )

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

22 **I.**  
23 **INTRODUCTION**

24 Respondent Dependable Escrow Co. ("Dependable Escrow") is an escrow agent licensed by  
25 the California Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the  
26 Escrow Law of the State of California (Fin. Code, § 17000 et seq.<sup>1</sup>) ("Escrow Law"). Dependable  
27

28 <sup>1</sup> Hereinafter "Code," unless otherwise indicated.

1 Escrow received its escrow agent’s license from the Commissioner on December 8, 1980.

2 Dependable Escrow is a suspended California corporation with its principal place of business  
3 located at 2001 W. Beverly Boulevard, Montebello, California.

4 George Reyes is Dependable Escrow’s president, secretary, sole shareholder, and registered  
5 agent. Mary Reyes, George Reyes’ spouse, is Dependable Escrow’s senior escrow officer. Michelle  
6 D. Reyes (“Michelle Reyes”), George and Mary Reyes’ daughter, is Dependable Escrow’s manager  
7 and escrow officer.

8 GM Thoroughbreds, Inc. is a suspended California corporation owned and controlled by  
9 George Reyes.

10 The Commissioner now seeks to revoke the escrow agent’s license issued to Dependable  
11 Escrow and to bar George Reyes, Mary Reyes, and Michelle Reyes from any employment,  
12 management or control of any escrow agent for violations of the Escrow Law, as set forth more fully  
13 below.

14 **II.**

15 **FACTUAL BACKGROUND**

16 On or about November 6, 2008, the Commissioner, by and through his Corporations  
17 Examiner, Deborah Wong (“Wong”), commenced a regulatory examination at Dependable Escrow’s  
18 licensed location. Wong examined Dependable Escrow’s most recent (September 2008) trust account  
19 reconciliation and found thirteen escrows with debit balances totaling \$134,772.75. Furthermore, her  
20 examination disclosed a negative trust account bank balance of \$53.89 as of September 18, 2008.  
21 The Commissioner immediately ordered Dependable Escrow to replace the trust account shortage,  
22 but Wong discovered other issues, such as unauthorized disbursements of trust funds, which  
23 prevented her from completing her regulatory examination.

24 Thereafter, on or about May 8, 2009, Corporations Examiner Yong Hi Kristie Jaynes  
25 (“Jaynes”) was assigned as the lead examiner due to the complex nature of Dependable Escrow’s  
26 problems. Subsequent to Jaynes’ appointment, the Commissioner’s examination turned from a  
27 regulatory exam into a special examination.

28 On or about May 27, 2009, the Commissioner determined that Dependable Escrow was

1 conducting its business in such an unsafe, injurious, and unauthorized manner so as to render further  
2 operations hazardous to the public and to its customers, and that as a result thereof, Dependable  
3 Escrow was unable to meet the demands of persons beneficially interested in the escrow trust  
4 account, such that the Commissioner issued an Order to Discontinue Escrow Activities Pursuant to  
5 Financial Code section 17415 to Dependable Escrow. Specifically, the Commissioner found that  
6 Dependable Escrow had caused shortages to exist in the trust account in excess of at least \$45,341.43,  
7 in violation of Code section 17400 and California Code of Regulations, title 10<sup>2</sup>, section 1738.1,  
8 deposited or otherwise disbursed trust account funds totaling at least \$12,052.75 into its general  
9 and/or payroll accounts or otherwise for the payment of business operating expenses or other non-  
10 trust related expenses in violation of Code sections 17409, 17414, subdivision (a)(1), and CCR  
11 sections 1738 and 1738.2, and failed to file its annual audit report for its fiscal year ended December  
12 31, 2008, in violation of Code section 17406, amongst other violations.

13 In light of the foregoing, on June 8, 2009, the Commissioner issued a Notice and Summary of  
14 Findings Pursuant to Financial Code section 17621 and Demand for and Order Taking Possession of  
15 the Trust Funds and Escrow Records of Dependable Escrow Co. Pursuant to Financial Code section  
16 17621. The orders were personally served upon Dependable Escrow on June 9, 2009, and  
17 Dependable Escrow failed to appeal the Commissioner's orders within the time required.

18 On June 8, 2009, the Commissioner appointed Jaynes as Limited Conservator ("Conservator")  
19 over Dependable Escrow's trust account(s), banking, and escrow records pursuant to Code section  
20 17630. The Commissioner personally served Dependable Escrow with the order appointing Jaynes  
21 Conservator on June 9, 2009.

22 On or about June 9, 2009, pursuant to her orders, the Commissioner took possession of the  
23 trust account(s) and existing escrow records of Dependable Escrow. The Conservator seized  
24 approximately 200 banker's boxes worth of escrow files, banking and accounting records from  
25 Dependable Escrow's licensed premises in Montebello, California. The Conservator's cataloging and  
26 review of those materials disclosed that many of Dependable Escrow's escrow files had either been  
27

28 <sup>2</sup> Hereinafter "CCR," unless otherwise indicated.

1 destroyed, partially destroyed, and/or were missing or lost. The Commissioner was able to recover  
2 portions of the partial escrow files from Dependable Escrow's shredder bin.

3 Beginning with her appointment on June 8, 2009, the Conservator commenced the task of  
4 reviewing Dependable Escrow's ledgers, trust banking records and escrow files, in an attempt to  
5 reconcile the trust account(s), determine any and all trust account shortages and establish the total  
6 amount of trust account liabilities. The Conservator's task was complicated by the fact that  
7 Dependable Escrow's books and records were unreliable, contained falsified documents, held  
8 incomplete and/or partially shredded files, and/or were missing the necessary escrow documents.

9 The Conservator identified a preliminary trust account shortage as of February 10, 2010, of at  
10 least \$594,946.17. This meant that there were insufficient funds held in the trust account to satisfy all  
11 of the outstanding trust account liabilities.

12 In order to recover the missing trust funds, the Conservator filed a proof of loss claim with the  
13 Escrow Agents' Fidelity Corporation ("EAFC") on behalf of the trust fund claimants. The EAFC is  
14 the non-profit mutual benefit corporation that indemnifies member escrow companies (independent  
15 escrow agents operating within the State of California) against loss of trust obligations caused by  
16 employee embezzlement and/or misappropriation. (See Code section 17304 [defining trust loss for  
17 purposes of the Escrow Law].) In support of her proof of loss claim, the EAFC required the  
18 Conservator to document each and every instance of misappropriation, theft, or loss utilizing the  
19 escrow files, banking records and other documents at her disposal. This process took the Conservator  
20 approximately thirteen months to complete.

21 On or about July 28, 2010, the Conservator submitted her proof of loss claim to the EAFC  
22 which totaled \$513,485.51. It should be noted that the proof of loss claim was less than the actual  
23 trust shortage, as many of the escrow files, containing trust account shortages, had been destroyed or  
24 were otherwise missing, such that the Conservator was unable to document those trust losses to the  
25 satisfaction of the EAFC, *i.e.*, such losses were not included with the proof of loss claim.

26 On or about December 7, 2010 the Conservator and the EAFC entered into a Settlement  
27 Agreement, Release, and Assignment. The EAFC agreed to settle the proof of loss claim which, in  
28 the end, enabled the Conservator to pay/cover 81% of Dependable Escrow's trust fund claimants'

1 losses.

2 **III.**

3 **GEORGE REYES SHOULD BE BARRED FROM EMPLOYMENT, MANAGEMENT OR**  
4 **CONTROL OF ANY ESCROW AGENT FOR VIOLATIONS OF THE ESCROW LAW**

5 On or about January 5, 2009, Dependable Escrow created a suspense escrow<sup>3</sup>, escrow number  
6 100, to move escrow trust funds from Dependable Escrow's old computer trust accounting system,  
7 "SMS," to its new trust accounting "FPS" computer system. This action transferred escrows with  
8 balances and old outstanding checks, closing-out the dormant Union Bank trust account which  
9 corresponded to the old "SMS" accounting system.

10 The funds credited to Dependable Escrow number 100 were originally either outstanding  
11 checks issued to authorized payees who had not yet cashed their checks and/or credit balances from  
12 dormant escrows wherein the funds had not yet been disbursed, possibly due to pending escrow  
13 cancellations. These escrow trust funds, held in Dependable Escrow file number 100, were due for  
14 escheatment to the State Controller's Office in the names of those individuals or entities who had  
15 either not cashed their checks or were parties to files pending cancellation. The trust funds held in  
16 suspense escrow number 100 were not monies that were due to Dependable Escrow or its owners.

17 Upon further review and inspection, the Conservator's examination of Dependable Escrow's  
18 books and records disclosed that George Reyes, Dependable Escrow's control person, had knowingly  
19 or recklessly disbursed or caused the disbursement of \$103,328.06 in trust funds from Dependable  
20 Escrow suspense escrow number 100, between February and March of 2009 by disbursing trust funds  
21 to himself and depositing the funds in his personal bank account, the bank account belonging to G.M.  
22 Thoroughbreds, and/or Dependable Escrow's general account in violation of Code section 17414,  
23 subdivision (a)(1) and CCR sections 1738 and 1738.2.

24 Each of the unauthorized disbursements of trust funds described in paragraphs 1. – 6., below,  
25 also caused a shortage to exist in the trust account in violation of CCR section 1738.1.

26 Violations discovered during the special examination and the Conservator's review of  
27

28 <sup>3</sup> A "suspense escrow" is essentially a holding account for any escrow trust funds awaiting escheatment to the State  
Controller's Office or disbursement to the rightful payees.

1 Dependable Escrow concerning George Reyes' activities include the following:

2 1. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

3 (a) On or about February 23, 2009, George Reyes caused an unauthorized disbursement of  
4 trust account funds to be made to himself in the amount of \$3,000.00 in violation of Code section  
5 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

6 (b) The unauthorized disbursement of trust funds described above in paragraph 1.(a) caused a  
7 shortage of \$3,000.00 to exist in the trust account in violation of CCR section 1738.1

8 2. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

9 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of  
10 trust account funds to be made to himself in the amount of \$5,500.00 in violation of Code section  
11 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

12 (b) The unauthorized disbursement of trust funds described above in paragraph 2.(a) caused a  
13 shortage of \$5,500.00 to exist in the trust account in violation of CCR section 1738.1.

14 3. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

15 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of  
16 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section  
17 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

18 (b) The unauthorized disbursement of trust funds described above in paragraph 3.(a) caused a  
19 shortage of \$20,000.00 to exist in the trust account in violation of CCR section 1738.1

20 4. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

21 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of  
22 trust account funds to be made to himself in the amount of \$20,000.00 in violation of Code section  
23 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

24 (b) The unauthorized disbursement of trust funds described above in paragraph 4.(a) caused a  
25 shortage of \$20,000.00 to exist in the trust account in violation of CCR section 1738.1

26 5. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

27 (a) On or about March 3, 2009, George Reyes caused an unauthorized disbursement of  
28 trust account funds to be made to himself in the amount of \$54,828.06 in violation of Code section

1 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

2 (b) The unauthorized disbursement of trust funds described above in paragraph 5.(a) caused a  
3 shortage of \$54,828.06 to exist in the trust account in violation of CCR section 1738.1

4 6. Unauthorized Disbursement of Trust Account Funds – Escrow Number 100

5 (a) On or about February 25, 2009, George Reyes caused an unauthorized disbursement of  
6 trust account funds to be made when he deposited trust funds in the amount of \$3,500.00 into  
7 Dependable Escrow’s general and/or payroll account in violation of Code sections 17409, 17414,  
8 subdivision (a)(1) and CCR sections 1738 and 1738.2. The commingling of trust funds is expressly  
9 prohibited under Code section 17409 because of the serious risk of misuse and loss. Thereafter, the  
10 wrongfully transferred funds were used to pay Dependable Escrow’s operating and/or payroll  
11 expenses in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2

12 (b) The unauthorized disbursement of trust funds described above in paragraph 6.(a) caused a  
13 shortage of \$3,500.00 to exist in the trust account in violation of CCR section 1738.1.

14 **IV.**

15 **MARY REYES SHOULD BE BARRED FROM EMPLOYMENT OF ANY ESCROW AGENT**  
16 **FOR VIOLATIONS OF THE ESCROW LAW**

17 Upon further review and inspection, the Conservator’s examination of Dependable Escrow’s  
18 books and records disclosed that Mary Reyes, Dependable Escrow’s senior escrow officer, had  
19 knowingly or recklessly disbursed or caused the disbursal of \$2,589.00 in trust funds in or about  
20 April 2008 in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

21 In at least one instance, a Dependable Escrow trust check, purportedly made payable to a  
22 party in the escrow transaction, was cashed at Garfield Liquor Store, a liquor store/check cashing  
23 facility located at 2433 W. Whittier Boulevard, Montebello, California 90640, approximately one  
24 mile from Dependable Escrow’s licensed location. When a copy of the trust check was shown to the  
25 escrow principal, the escrow principal stated that he had never received the check, had never  
26 endorsed the check, and had never received the trust proceeds by cashing his trust check at the  
27 Garfield Liquor Store.

28 Mary Reyes’ signature appears on the face of the check cashed at the Garfield Liquor Store

1 and she was the escrow officer assigned to handle the escrow from which the trust check was issued.

2 Mary Reyes is presently barred from any management or control of any escrow agent for  
3 having previously made unauthorized disbursements of trust account funds in violation of Code  
4 section 17414, subdivisions (a)(1) and (a)(2) and CCR sections 1738 and 1738.2, as discussed more  
5 fully at paragraph 31., below. Mary Reyes was also previously ordered suspended from any  
6 employment, management or control of any escrow agent for a period of thirty days for violations of  
7 the Escrow Law, as discussed more fully at paragraph 32., below.

8 The unauthorized disbursement of trust funds described in paragraph 7., below, also caused a  
9 shortage to exist in the trust account in violation of CCR section 1738.1.

10 Violations discovered during the special examination and the Conservator's review of  
11 Dependable Escrow concerning Mary Reyes' activities include the following:

12 7. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5701182

13 (a) On or about April 15, 2008, Mary Reyes caused an unauthorized disbursement of trust  
14 account funds to be made in the amount of \$2,589.00 in violation of Code section 17414, subdivision  
15 (a)(1) and CCR sections 1738 and 1738.2.

16 (b) The unauthorized disbursement of trust funds described above in paragraph 7.(a) caused a  
17 shortage of \$2,589.00 in violation of CCR section 1738.1.

18 **V.**

19 **MICHELLE D. REYES SHOULD BE BARRED FROM EMPLOYMENT, MANAGEMENT**  
20 **OR CONTROL OF ANY ESCROW AGENT FOR VIOLATIONS OF THE ESCROW LAW**

21 Upon further review and inspection, the Conservator's examination of Dependable Escrow's  
22 books and records disclosed that Michelle D. Reyes, Dependable Escrow's manager and escrow  
23 officer, had knowingly or recklessly disbursed or caused the disbursal of \$153,343.72 in trust funds  
24 during the period June 2007 to December 2008 in violation of Code section 17414, subdivision (a)(1)  
25 and CCR sections 1738 and 1738.2. In at least four instances, Dependable Escrow trust checks,  
26 purportedly made payable to the parties in the escrow transactions, were cashed at Garfield Liquor  
27 Store, a liquor store/check cashing facility located at 2433 W. Whittier Boulevard, Montebello,  
28 California 90640, approximately one mile from Dependable Escrow's licensed location. When

1 copies of the trust checks were shown to the escrow principals, the escrow principals stated that they  
2 had never received the checks, had never endorsed the checks, and had never received the trust  
3 proceeds by cashing their trust checks at the Garfield Liquor Store. In one such example, the escrow  
4 principal had allegedly received and cashed his escrow refund check at Garfield Liquor Store  
5 approximately one year after his death.

6 Michelle Reyes' signature appears on the face of each the checks cashed at the Garfield  
7 Liquor Store and she was the escrow officer assigned to handle the escrows from which each of the  
8 trust checks were issued.

9 In addition to the unauthorized disbursements of trust funds, the Commissioner discovered  
10 that Michelle D. Reyes had taken unearned escrow fees, prior to the close of escrow in violation of  
11 Code section 17421; taken unauthorized notary fees in excess of those authorized in violation of  
12 Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2; engaged in lapping<sup>4</sup>  
13 activities in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2;  
14 failed to follow escrow instructions by failing to pay the home owner's warranty insurance as  
15 instructed in violation of CCR 1738.2, resulting in the cancellation of the homeowner's warranty  
16 insurance policy; deposited trust funds into Dependable Escrow's general and/or payroll account by  
17 incorrectly posting escrow receipts to the general account in violation of Code section 17409 and  
18 1738.1; and failed to correctly prepare the statement of account in at least one escrow transaction in  
19 violation of CCR section 1741.3 (the escrow file contained at least six different versions of the HUD-  
20 1 closing statement).

21 The unauthorized disbursements of trust funds described below also caused a shortage to exist  
22 in the trust account in violation of CCR section 1738.1.

23 Violations discovered during the special examination and the Conservator's review of  
24 Dependable Escrow concerning Michelle D. Reyes' activities include the following:

25 \_\_\_\_\_  
26 <sup>4</sup> Lapping violations concern escrow transactions wherein one escrow file contains a shortage, *i.e.*, there are insufficient  
27 funds held in the escrow file to cover the disbursements from that escrow in accordance with the parties' instructions,  
28 such that the escrow agent disburses funds from another, unrelated escrow to cover the shortage. The process continues  
until there are insufficient funds to pay all remaining authorized disbursements. Lapping can be compared to a Ponzi  
scheme. Lapping transactions constitute violations of Code sections 17414, subdivision (a)(1) and CCR sections 1738  
and 1738.2 of the Escrow Law.

1           8. Unauthorized Disbursement of Trust Account Funds – Escrow Number 513194

2           (a) On or about June 12, 2007, Michelle D. Reyes caused an unauthorized disbursement of  
3 trust account funds to be made in the amount of \$2,258.00 in violation of Code section 17414,  
4 subdivision (a)(1) and CCR sections 1738 and 1738.2.

5           (b) The unauthorized disbursement of the trust funds described above in paragraph 8.(a)  
6 caused a shortage of \$2,258.00 to exist in the trust account in violation of CCR section 1738.1.

7           9. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

8           (a) On or about April 1, 2009, Michelle D. Reyes caused an unauthorized disbursement of  
9 trust account funds to be made in the amount of \$150.00 in violation of Code section 17414,  
10 subdivision (a)(1) and CCR sections 1738 and 1738.2. The parties to the escrow had authorized  
11 Michelle D. Reyes to receive \$150.00 in notary fees per the escrow instructions; however, Reyes  
12 disbursed \$300.00 in notary fees to herself, \$150.00 in excess of those fees authorized by the escrow  
13 principals.

14           (b) The unauthorized disbursement of trust funds described above in paragraph 9.(a) caused a  
15 shortage of \$150.00 to exist in the trust account in violation of CCR section 1738.1.

16           10. Failure to Correctly Prepare Statement of Account – Escrow Numbers 5801405 and  
17 5901437

18           The Conservator’s review of escrow file number 5801405 and 5901437 (both files  
19 concerned the same transaction or property) disclosed that Michelle D. Reyes had prepared at least  
20 six different versions of the statement of account or HUD-1 for these escrows in violation of CCR  
21 section 1741.3. All of the statements of account were improperly prepared by Michelle D. Reyes,  
22 including failing to balance the HUD-1 and failing to provide the seller in the escrow with her final  
23 HUD-1 in violation of the Escrow Law.

24           11. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801405

25           (a) On or about April 2, 2009, Michelle D. Reyes caused an unauthorized disbursement of  
26 trust account funds to be made in the amount of \$3,846.27 in violation of Code section 17414,  
27 subdivision (a)(1) and CCR sections 1738 and 1738.2. The unauthorized disbursement of trust  
28 account funds in Dependable Escrow number 5801405 was part of a lapping transaction in which title

1 charges due to be paid to Fidelity National Title Company in Dependable Escrow file number  
2 5801399 were paid out of escrow file number 5801405 rather than from escrow number 5801399  
3 which resulted in the unauthorized disbursement of trust account funds.

4 (b) The unauthorized disbursement of trust funds described above in paragraph 11.(a) caused  
5 a shortage of \$3,846.27 to exist in the trust account in violation of CCR section 1738.1.

6 12. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

7 (a) On or about November 19, 2008, Michelle D. Reyes caused an unauthorized  
8 disbursement of trust account funds to be made in the amount of \$80,000.00 in violation of Code  
9 section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

10 (b) The unauthorized disbursement of the trust funds described above in paragraph 12.(a)  
11 caused a shortage of \$80,000.00 to exist in the trust account in violation of CCR section 1738.1.

12 13. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

13 (a) On or about December 29, 2009, Michelle D. Reyes caused an unauthorized  
14 disbursement of trust account funds to be made in the amount of \$54,000.00 in violation of Code  
15 section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.

16 (b) The unauthorized disbursement of trust funds described above in paragraph 13.(a) caused  
17 a shortage of \$54,000.00 to exist in the trust account in violation of CCR section 1738.1.

18 14. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801393

19 (a) On or about October 10, 2008, Michelle D. Reyes caused an unauthorized disbursement  
20 of trust account funds to be made in the amount of \$1,755.50 in violation of Code section 17414,  
21 subdivision (a)(1) and CCR sections 1738 and 1738.2.

22 (b) The unauthorized disbursement of trust funds described above in paragraph 14.(a) caused  
23 a shortage of \$1,755.50 to exist in the trust account in violation of CCR section 1738.1.

24 15. Early Disbursement of Escrow Fees – Escrow Number 5801393

25 (a) On or about October 9, 2008, Michelle D. Reyes caused the early disbursement of escrow  
26 fees in the amount of \$2,525.00 prior to the close of escrow in violation of Code section 17421.  
27 Escrow fees are only earned by an escrow agent upon the closing of an escrow, therefore, escrow  
28 agents are not permitted to disburse fees early.

1           16. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

2           (a) On or about October 3, 2008, Michelle D. Reyes caused an unauthorized disbursement of  
3 trust account funds to be made in the amount of \$1,500.00 in violation of Code section 17414,  
4 subdivision (a)(1) and CCR sections 1738 and 1738.2.

5           (b) The unauthorized disbursement of trust funds described above in paragraph 16.(a) caused  
6 a shortage of \$1,500.00 to exist in the trust account in violation of CCR section 1738.1.

7           17. Unauthorized Disbursement of Trust Account Funds – Escrow Number 5801388

8           (a) On or about October 7, 2008, Michelle D. Reyes caused an unauthorized disbursement of  
9 trust account funds to be made in the amount of \$1,777.47 in violation of Code section 17414,  
10 subdivision (a)(1) and CCR sections 1738 and 1738.2.

11           (b) The unauthorized disbursement of trust funds described above in paragraph 17.(a) caused  
12 a shortage of \$1,777.47 to exist in the trust account in violation of CCR section 1738.1.

13           18. Failure to Follow Escrow Instructions – Escrow Number 5801388

14           (a) On or about January 9, 2009, Michelle D. Reyes failed to follow escrow instructions in  
15 violation of CCR section 1738.2. Michelle D. Reyes issued trust check number 207720 in the  
16 amount of \$500.00 from Dependable Escrow file number 5801388 on January 9, 2009, some three  
17 months after the escrow had closed (all disbursements in the escrow should have been made at or  
18 before escrow had closed). Check number 207720 was discovered in the escrow file having never  
19 been mailed to the Home Warranty of America Insurance Company. Michelle D. Reyes' failure to  
20 follow the parties' escrow instructions resulted in the cancellation of the homeowner's warranty  
21 insurance policy, such that when the homeowner sought to file a claim with her insurer for repairs,  
22 the insurer denied her claim.

23           19. Early Disbursement of Escrow Fees – Escrow Number 5801388

24           (a) On or about September 10, 2008, Michelle D. Reyes caused the early disbursement of  
25 escrow fees in the amount of \$3,000.00 prior to the close of escrow in violation of Code section  
26 17421. Escrow fees are only earned by an escrow agent upon the closing of an escrow, therefore,  
27 escrow agents are not permitted to disburse fees early.

28       ///



1           22. Unauthorized Disbursement of Trust Account Funds

2           In addition to those unauthorized disbursements of trust account funds described above,  
3 Dependable Escrow engaged in a check cashing scheme which caused the unauthorized disbursement  
4 of trust account funds totaling at least \$148,425.37 in violation of Code section 17414, subdivision  
5 (a)(1) and CCR sections 1738 and 1738.2 .

6           The Conservator determined, on the basis of her review of Dependable Escrow's books and  
7 records, that at least one hundred fourteen Dependable Escrow trust checks, purportedly made  
8 payable to escrow principals, were cashed at the Garfield Liquor Store during the period October  
9 2006 to May 2009. A sampling of said checks disclosed that the escrow parties neither endorsed the  
10 trust checks nor received their trust check proceeds. Each of the unauthorized disbursements caused  
11 shortages to occur in the trust account in violation of CCR section 1738.1.

12           Samplings of five of the unauthorized disbursements caused by Dependable Escrow are described  
13 as follows.

14           (a) On or about January 15, 2008, Dependable Escrow caused the unauthorized disbursement  
15 of trust account funds in the amount of \$619.52 from Dependable Escrow file number 5701187, in  
16 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The  
17 unauthorized disbursement of the trust funds caused a shortage of \$619.52 to exist in the trust account  
18 in violation of CCR section 1738.1.

19           (b) On or about November 19, 2007, Dependable Escrow caused the unauthorized  
20 disbursement of trust account funds in the amount of \$1,875.57 from Dependable Escrow file number  
21 5701213, in violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2.  
22 The unauthorized disbursement of the trust funds caused a shortage of \$1,875.57 to exist in the trust  
23 account in violation of CCR section 1738.1.

24           (c) On or about April 18, 2008, Dependable Escrow caused the unauthorized disbursement of  
25 trust account funds in the amount of \$626.71 from Dependable Escrow file number 5801348, in  
26 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The  
27 unauthorized disbursement of trust funds caused a shortage of \$626.71 to exist in the trust account in  
28 violation of CCR section 1738.1.

1 (d) On or about August 22, 2008, Dependable Escrow caused the unauthorized disbursement  
2 of \$1,125.00 from Dependable Escrow file number 5801362, in violation of Code section 17414,  
3 subdivision (a)(1) and CCR sections 1738 and 1738.2. The unauthorized disbursement of trust funds  
4 caused a shortage of \$1,125.00 to exist in the trust account in violation of CCR section 1738.1.

5 (e) On or about August 29, 2008, Dependable Escrow caused the unauthorized disbursement  
6 of trust account funds in the amount of \$2,719.58 from Dependable Escrow file number 5801362, in  
7 violation of Code section 17414, subdivision (a)(1) and CCR sections 1738 and 1738.2. The  
8 unauthorized disbursement of trust funds caused a shortage of \$2,719.58 to exist in the trust account  
9 in violation of CCR section 1738.1.

10 23. Falsification of Escrow Records

11 In connection with the unauthorized disbursements set forth above, Dependable Escrow falsified  
12 escrow records in violation Code sections 17414, subdivision (a)(2).

13 24. Trust Account Shortage

14 As stated previously in section II., above, the Conservator identified a preliminary trust  
15 account shortage as of February 10, 2010, of at least \$594,946.17 in violation of CCR section 1738.1.  
16 This meant that there were insufficient funds held in the trust account to satisfy all of the outstanding  
17 trust account liabilities.

18 In order to recover the loss of trust obligations caused by Dependable Escrow's principals,  
19 employees, and escrow manager, on or about July 28, 2010, the Conservator submitted her proof of  
20 loss claim to the EAFC. The Conservator's proof of loss totaled \$513,485.51.

21 On or about December 7, 2010 the Conservator and the EAFC entered into a Settlement  
22 Agreement, Release, and Assignment. The EAFC agreed to settle the proof of loss claim submitted  
23 by the Conservator which, in the end, enabled the Conservator to pay/cover 81% of Dependable  
24 Escrow's trust fund claimants' trust losses.

25 25. Late Filed Annual Audit Report

26 Pursuant to Code section 17406, all licensees under the Escrow Law are required to file an  
27 annual audit report containing audited financial statements ("annual audit report") within one hundred  
28 five days after the close of their fiscal year. Dependable Escrow's fiscal year-end is December 31st.

1 Accordingly, Dependable Escrow was required to file its audit report for the fiscal year ended  
2 December 31, 2007 on or before April 15, 2008.

3 On or about April 14, 2008, Dependable Escrow's principal wrote to the Commissioner's  
4 special administrator, requesting a filing extension for its annual audit report. On or about April 15,  
5 2008, the Commissioner's special administrator granted Dependable Escrow a two-week filing  
6 extension. Accordingly, Dependable Escrow had until April 30, 2008 to file its annual audit report  
7 for the fiscal year ended December 31, 2007. The Commissioner's special administrator specifically  
8 warned Dependable Escrow in writing, that should it fail to file its annual audit report by the April  
9 30th date, penalties would accrue from the original filing deadline of April 15, 2008.

10 Dependable Escrow failed to file its annual audit report by April 30, 2008.

11 Finally on or about May 7, 2008, the Commissioner again notified Dependable Escrow in  
12 writing of the due date of its 2007 annual audit report and the possibility of the imposition of fines if  
13 the report was filed late. On or about October 15, 2008, the Commissioner received Dependable  
14 Escrow's 2007 annual audit report. Dependable Escrow's 2007 annual audit report was filed with the  
15 Commissioner one hundred eighty-two days late in violation of Code section 17406 and is also an  
16 independent ground to revoke Dependable Escrow's license pursuant to Code section 17602.5.

17 26. Failure to Submit Annual Audit Report

18 Dependable Escrow was required to file its annual audit report for the fiscal year ended  
19 December 31, 2008, on or before April 15, 2009.

20 Dependable Escrow never filed its 2008 annual audit report in violation of Code section  
21 17406 and is also an independent ground to revoke Dependable Escrow's license pursuant Code  
22 section 17602.5.

23 27. Failure to Reconcile Trust Account

24 Based upon the examiner's special examination and the Conservator's review of Dependable  
25 Escrow's books and records, Dependable Escrow had not completed its trust account bank  
26 reconciliations since at least January 31, 2009 through June 8, 2009, in violation of Code section  
27 17404 and CCR section 1732.2.

28 ///

1           28. Liquidity Deficiencies

2           Pursuant to Code section 17210, all licensees under the Escrow Law are required to maintain,  
3 at all times, a tangible net worth of at least \$50,000.00, including liquid assets of at least \$25,000.00  
4 in excess of current liabilities. As of December 31, 2007, Dependable Escrow had a liquidity  
5 deficiency of \$21,290.00 and a tangible net worth deficiency of \$4,830.00 in violation of Code  
6 section 17210. As of December 31, 2008, Dependable Escrow's liquidity deficiency had increased to  
7 \$124,009.00 and its tangible net worth deficiency to \$36,334.00 in violation of Code section 17210.  
8 These deficiencies were calculated on the basis of a preliminary compilation of financial reports  
9 provided to the Conservator by Michael Haas, Dependable Escrow's certified public accountant.

10           29. Failure to Maintain Books and Records

11           CCR section 1737.3 requires escrow agents to maintain their books and records for a period  
12 of at least five years from the close of escrow. As stated previously in section II., above, in many  
13 instances Dependable Escrow had either lost or destroyed escrow files in violation of CCR 1737.3 by  
14 failing to maintain such records for a period of at least five years from the close of escrow.

15           30. Failure to Respond to Commissioner's Inspection Demand

16           In connection with the special examination, Dependable had refused to submit its books,  
17 papers and affairs to the Commissioner for inspection in violation of Code section 17405 and CCR  
18 section 1730.

19           On or about May 15, 2009, the Commissioner wrote to Michelle D. Reyes requesting access  
20 to Dependable Escrow's licensed premises in order to inspect its books and records on May 18, 2009,  
21 commencing at the hour of 10:00 a.m. Later that same day, Michelle D. Reyes telephoned the  
22 Complainant, stating that she was unavailable to meet with the examiner during the scheduled date  
23 and time. The Complainant responded to Michelle D. Reyes, stating that other principals and/or  
24 officers employed by Dependable Escrow could be made available to meet with the examiner on the  
25 designated day. Accordingly, on May 18, 2009, the Commissioner's examiner arrived at Dependable  
26 Escrow's licensed premises to conduct the scheduled examination; however, the business was closed  
27 and the Commissioner was unable to gain access to the needed books and records held at Dependable  
28 Escrow's business premises.



1 Agreement.

2 32. Mary Reyes Previously Suspended from Employment of Any Escrow Agent

3 On or about August 1, 2000, the Commissioner commenced a second disciplinary action  
4 against Mary Reyes. The Commissioner sought to bar Mary Reyes from any position of  
5 employment, management or control of any escrow agent for violations of Code sections 17414,  
6 subdivision (a)(1) and 17414, subdivision (a)(2) and CCR sections 1738 and 1738.2. The  
7 Commissioner alleged that Mary Reyes had closed an escrow without having first received the cash  
8 deposit and other funds required from the buyers by the escrow instructions, including the lenders  
9 instructions. On or about March 5, 2001, Administrative Law Judge H. Stuart Waxman issued his  
10 proposed decision in which he found that Mary Reyes, while employed as an escrow agent at  
11 Dependable Escrow, had failed to submit amended escrow instructions to the lender in violation of  
12 Code sections 17414, subdivisions (a)(1) and (a)(2) and CCR sections 1738 and 1738.2, such that  
13 Mary Reyes was ordered suspended from any employment, management or control of any escrow  
14 agent for a period of thirty days. The Commissioner adopted ALJ Waxman's decision effective  
15 March 23, 2001. Exhibit B – a true and correct copy of the Adopted Decision.

16 **VIII.**

17 **DEPENDABLE ESCROW PREVIOUSLY SANCTIONED FOR VIOLATIONS OF THE**  
18 **ESCROW LAW**

19 Dependable Escrow has a history of suspensions, fines, and other violations of the Escrow  
20 Law, as set forth more fully below.

21 33. Dependable Escrow's Former Escrow Manager and Escrow Officer Barred

22 On or about June 16, 2006, the Commissioner issued a final order pursuant to Code section  
23 17423, barring Linda J. Chavez ("Chavez"), Dependable Escrow's former escrow manager and  
24 officer, for making unauthorized disbursements in at least nine escrow transactions totaling  
25 \$481,018.84 between May 2004 and January 2005 in violation of Code section 17414, subdivision  
26 (a)(1) and CCR sections 1738 and 1738.2. A special examination of Dependable Escrow's books and  
27 records revealed that Chavez had made numerous posting adjustments to the escrow ledgers in an  
28 attempt to cover up the unauthorized disbursements in violation of Code section 17414 subdivision

1 (a)(2). The unauthorized disbursements of trust funds caused a shortage to exist in the trust account  
2 in the amount of at least \$481,018.84 in violation of CCR section 1738.1. Dependable Escrow later  
3 purportedly cured the \$481,018.84 trust account shortages created as a result of Chavez's  
4 unauthorized conduct. Exhibit C – a true and correct copy of the Final Order Barring Chavez.

5 34. Dependable Escrow Suspended for Failing to Report Unauthorized Disbursements

6 On February 26, 2007, the Commissioner ordered Dependable Escrow undergo a seven-day  
7 suspension pursuant to Code section 17609 as set forth in the Settlement Agreement *In the Matter of*  
8 *the Accusation of the Commissioner of Corporations of the State of California v. Dependable Escrow*  
9 *Co.*, OAH Case Number L-2006110069. Specifically, the Commissioner found that on April 19,  
10 2005, Dependable Escrow, through its certified public accountant, had filed its December 31, 2004  
11 annual audit report with the Commissioner in which the CPA stated that "It was noted in reviewing  
12 various files that certain disbursements were made from the trust account that appear to be personal  
13 in nature . . ." The 2004 audited financial statements also contained a trial balance for the period  
14 ended December 31, 2004, which disclosed a possible trust account shortage of \$261,497.45.

15 On or about April 22, 2005, the Commissioner commenced a special examination of the  
16 books and records of Dependable Escrow based upon the information contained in its audited  
17 financials. The escrow ledgers obtained at the commencement of the special examination included  
18 activity through April 21, 2005, and disclosed thirty-five escrows with debit balances totaling  
19 \$533,962.90. The End of Month Exceptions Overdraft report provided for April 30, 2005, included a  
20 further \$119,918.67 in debit balances. The special examination eventually revealed that as of April  
21 30, 2004, Dependable had a trust account shortage of \$832,170.22, which had been as high as  
22 \$1,022,920.28. The trust account shortage had begun as early as February 2004 and continued  
23 climbing into April 2005. The Commissioner believed, on the basis of documentation reviewed, that  
24 Dependable Escrow had cured the trust account shortage.

25 Chavez, Dependable Escrow's former escrow manager and escrow officer, caused at least  
26 \$481,018.84 of the total trust account shortage when she made unauthorized disbursements of trust  
27 funds in violation of Code section 17414, subdivision (a)(1) and CCR, title 10, sections 1738 and  
28 1738.2.

1 Dependable Escrow discovered the misappropriation of trust funds by Chavez on March 21,  
2 2005, but never reported its discovery to the Commissioner as is required by Code section 17414,  
3 subdivision (c). Instead, the Commissioner learned from the audited 2004 financial statements that  
4 the trust funds had possibly been misappropriated. Code section 17414, subdivision (c), requires that  
5 any person having knowledge of any abstraction or misappropriation of trust funds must immediately  
6 report such findings to the Commissioner. This Dependable Escrow did not do.

7 In light of the foregoing violations of the Escrow Law, and pursuant to the parties' Settlement  
8 Agreement, Dependable Escrow agreed to submit to a seven-day suspension commencing March 8,  
9 2007, during which time Dependable Escrow was forbidden from accepting any new escrow business  
10 pursuant to Financial Code section 17609. Exhibit D – true and correct copies of the Suspension  
11 Order and Settlement Agreement.

12 35. Dependable Escrow Ordered to Pay Fines for Failing to Timely File its Annual Report

13 On October 3, 2007, the Commissioner ordered Dependable Escrow to pay penalties totaling  
14 \$5,800.00 pursuant to Code section 17408 on the basis of its failure to timely file the annual audit  
15 report for its fiscal year ended December 31, 2006. Dependable Escrow was fifty-eight days late in  
16 filing its annual audit report for 2006. Exhibit E – a true and correct copy of the Order Imposing  
17 Penalties.

18 **IX.**

19 **LAW**

20 Code section 17210 provides in pertinent parts:

21 (b) An escrow agent licensed prior to January 1, 1986, shall maintain  
22 at all times a tangible net worth according to the following schedule:

23 . . .

24 (9) Fifty thousand dollars (\$50,000) as of July 1, 1993, and thereafter,  
including liquid assets of at least twenty-five thousand dollars  
(\$25,000) in excess of current liabilities.

25 Code section 17304 provides:

26 “Loss,” within the meaning of this chapter, means the loss of trust  
27 obligations held by a member as a result of the fraudulent or dishonest  
28 abstraction, misappropriation, or embezzlement of trust obligations by

1 an officer, director, trustee, stockholder, manager, or employee of a  
2 member.

3 Code section 17400 provides:

4 The commissioner may adopt such rules as are reasonable and  
5 necessary for the enforcement of this division.

6 Code section 17404 provides:

7 Every person subject to this division shall keep and use in its business,  
8 books, accounts, and records which will properly enable the  
9 commissioner to determine whether the escrow functions performed by  
10 such person comply with the provisions of this division and with all  
11 rules made by the commissioner under this division.

12 Code section 17405 provides in pertinent parts:

13 (a) The business, accounts, and records of every person performing as  
14 an escrow agent, whether required to be licensed under this division or  
15 not, are subject to inspection and examination by the commissioner at  
16 any time without prior notice. The provisions of this section shall not  
17 apply to persons specified in Section 17006.

18 (b) Any person subject to this division, shall, upon request, exhibit and  
19 allow inspection and copying of any books and records by the  
20 commissioner or his or her authorized representative.

21 ...

22 Code section 17406 provides in pertinent part:

23 (a) Each licensee shall submit to the commissioner, at the licensee's  
24 own expense, an audit report containing audited financial statements  
25 covering the calendar year or, if the licensee has an established fiscal  
26 year, then for that fiscal year, within 105 days after the close of the  
27 calendar or fiscal year, as applicable. At that time, each licensee shall  
28 also file additional relevant information as the commissioner may  
require.

...

Code section 17408 provides in pertinent parts:

(a) If any person subject to this division fails to make any report  
required by law or by the commissioner, the commissioner may  
immediately cause the books, records, papers, and affairs of said person  
to be thoroughly examined.

1 (b) The commissioner may impose, by order, a penalty on any person  
2 who fails, within the time specified in any written demand of the  
3 commissioner, (1) to make and file with the commissioner any report  
4 required by law or requested by the commissioner, or (2) to furnish any  
5 material information required by the commissioner to be included in  
6 the report. The amount of the penalty may not exceed one hundred  
dollars (\$100) for each day for the first five days the report or  
information is overdue, and thereafter may not exceed five hundred  
dollars (\$500) for each day the report or information is overdue.

7 ...

Code section 17409 provides:

8 (a) All moneys deposited in escrow to be delivered upon the close of  
9 the escrow or upon any other contingency shall be deposited and  
10 maintained in a noninterest-bearing demand or checking account in a  
11 bank, a state or federal savings bank, or a state or federal savings  
12 association or in a noninterest-bearing account subject to immediate  
13 withdrawal in an industrial loan company insured by the Federal  
14 Deposit Insurance Corporation and approved to receive those moneys  
15 by the commissioner. Thereafter, these moneys may be deposited in an  
16 interest-bearing account in a bank, a state or federal savings bank, a  
17 state or federal savings association, an industrial loan company  
18 approved to receive those moneys by the commissioner, or a state or  
19 federal credit union, if the depositor is qualified for membership under  
20 the bylaws of that credit union, and the moneys are maintained  
21 separate, distinct, and apart from funds belonging to the escrow agent.  
22 Those funds, when deposited, are to be designated as "trust funds,"  
23 "escrow accounts," or under some other appropriate name indicating  
24 that the funds are not the funds of the escrow agent.

25 ...

Code section 17414 provides in pertinent parts:

26 (a) It is a violation for any person subject to this division or any  
27 director, stockholder, trustee, officer, agent, or employee of any such  
28 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.

(2) Knowingly or recklessly make or cause to be made any  
misstatement or omission to state a material fact, orally or in writing, in  
escrow books, accounts, files, reports, exhibits, statements, or any other

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document pertaining to an escrow or escrow affairs.

...

(c) Any person subject to this division who knows of a person's involvement in an abstraction or misappropriation of money, funds, trust obligations, or property deposited with a licensed escrow agent shall immediately report the abstraction or misappropriation in writing to the commissioner and to Fidelity Corporation. No person shall be civilly liable for reporting as required under this subdivision, unless the information provided in the report is false and the person providing false information does so with knowledge and malice. The reports filed under this section, including the identity of the person making the filing, shall remain confidential pursuant to state law.

Code section 17415 provides in pertinent part as follows:

(a) If the commissioner, as a result of any examination or from any report made to him or her, shall find that any person subject to this division is in an insolvent condition, is conducting escrow business in such an unsafe or injurious manner as to render further operations hazardous to the public or to customers, has failed to comply with the provisions of Section 17212.1 or 17414.1, has permitted its tangible net worth to be lower than the minimum required by law, has failed to maintain its liquid assets in excess of current liabilities as set forth in Section 17210, or has failed to comply with the bonding requirements of Chapter 2 (commencing with Section 17200) of this division, the commissioner may, by an order addressed to and served by registered or certified mail or by personal service on such person and on any other person having in his or her possession or control any escrowed funds, trust funds or other property deposited in escrow with said person, direct discontinuance of the disbursement of trust funds by the parties or any of them, the receipt of trust funds, the delivery or recording of documents received in escrow, or other business operations. No person having in his or her possession any of these funds or documents shall be liable for failure to comply with the order unless he or she has 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.

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1 Code section 17421 provides:

2 Notwithstanding the provisions of Section 17420, a disbursal, other  
3 than for a fee, commission or compensation may be advanced or paid  
4 out prior to the close of an escrow if the written instructions of all  
5 parties to the transaction so provide.

6 Code section 17602.5 provides in pertinent part as follows:

7 If any licensed escrow agent fails to make any reports required by law  
8 or by the commissioner within ten (10) days from the date designated  
9 for the making of the reports, or within any extension of time granted  
10 by the commissioner, . . . such failure shall constitute grounds for the  
11 suspension or revocation of the license held by such escrow agent.

12 Code section 17609 provides:

13 The revocation, suspension, surrender or expiration of an escrow  
14 agent's license does not impair or affect pre-existing escrows lawfully  
15 contracted, but nothing contained in this division shall be deemed to  
16 authorize the acceptance of further funds or documents into escrow  
17 subsequent to such revocation, surrender or expiration or during any  
18 period of suspension.

19 Code section 17621 provides:

20 Whenever it appears to the commissioner that any escrow agent subject  
21 to this division:

- 22 (a) Is in an insolvent condition;
- 23 (b) Is conducting escrow business in an unsafe or unauthorized  
24 manner;
- 25 (c) Has violated its charter or any law of the State of California;
- 26 (d) Refuses to submit its books, papers and affairs to the inspection of  
27 any examiner;
- 28 (e) Neglects or refuses to observe any order of the commissioner made  
pursuant to the provisions of this division, within the time specified  
therein, unless the enforcement of such order is restrained in a  
proceeding brought by the escrow agent;
- (f) Any officer, director, or trustee of such escrow agent refuses to be

1 examined upon oath touching the business of such escrow agent;

2 (g) Any officer, director, stockholder, or trustee of such escrow agent,  
3 or attorney in fact of such escrow agent has embezzled, sequestered, or  
4 willfully diverted the assets or trust funds of such escrow agent;

5 (h) Has permitted its tangible net worth to be lower than the minimum  
6 required by law;

7 (i) Has failed to comply with the bonding requirements of Chapter 2  
8 of this division the commissioner shall dispatch a written notice and  
9 summary of findings, as referred to in Section 17415, to the principal  
10 officer of the escrow agent involved or to its manager of record; and  
11 such escrow agent shall be afforded a reasonable opportunity to comply  
12 or otherwise effect such remedies as the commissioner may deem  
13 acceptable. However, should the escrow agent so notified fail to  
14 comply within five days of receipt of the notice, or as soon as it appears  
15 to the commissioner that no compliance is possible, or in the event  
16 prompt delivery of the prescribed written notice is impossible, the  
17 commissioner may forthwith take possession of the property and  
18 business of such escrow agent and retain possession until such escrow  
19 agent resumes business or its affairs be finally liquidated as provided in  
20 this chapter. The escrow agent, with the consent of the commissioner,  
21 may resume business upon such conditions as the commissioner may  
22 prescribe.

23 Code section 17630 provides:

24 If any facts occur which would entitle the commissioner under Section  
25 17621 to take possession of the property, business and assets of a  
26 licensee the commissioner may appoint a conservator of a licensee and  
27 require of him such bond as the commissioner deems proper. The  
28 commissioner may also, upon the request of the board of directors of a  
licensee, appoint a conservator of such licensee and require of him such  
bond as the commissioner deems proper. The conservator, under the  
direction of the commissioner, shall take possession of the property,  
business and assets of the licensee and take such action as he may deem  
necessary to conserve the assets of such licensee pending further  
disposition of its business. The conservator shall retain such possession  
until the property, business and assets of the licensee are returned to the  
licensee or until further order of the commissioner.

CCR section 1730 provides:

(a) An escrow agent who is engaged in the business of receiving

1 escrows specified in subdivision (c) of Section 17312 of the Financial  
2 Code and is required to be a member of Escrow Agents' Fidelity  
3 Corporation shall have its business offices located in the State of  
4 California and shall maintain its books, records and accounts in the  
5 State of California. An escrow agent who is not engaged in the business  
6 of receiving escrows specified in subdivision (c) of Section 17312 of  
7 the Financial Code and is not required to be a member of Escrow  
8 Agents' Fidelity Corporation shall maintain its books, records and  
9 accounts in the State of California or in the state the escrow agent is  
10 located in.

11 (b) An escrow agent shall notify the Commissioner in writing of the  
12 location of its books, records and accounts. Such books, records and  
13 accounts shall be maintained at such location unless the escrow agent  
14 notifies the Commissioner in writing at least 15 days prior to changing  
15 the location of such books.

16 CCR section 1732.2 provides in pertinent parts:

17 (a) An escrow agent shall establish and maintain currently the  
18 following books with reference to its escrow accounts:

- 19 (1) Escrow ledger containing a separate ledger sheet for each escrow;
- 20 (2) Escrow liability controlling account;
- 21 (3) Cash receipt and disbursement journal or a file containing copies of  
22 all receipts and checks and/or check stubs of checks issued by the  
23 escrow agent as a medium of posting to the records referred to in  
24 subsections (1) and (2) in which case adding machine tapes of totals of  
25 receipts and checks shall be retained. The records referred to in  
26 subsections (1) and (2) shall be reconciled at least once each month  
27 with the bank statements of the "trust" or "escrow" account. The  
28 records referred to in subsection (1) shall be reconciled at least once  
each week with the escrow liability controlling account referred to in  
subsection (2).

(b) An escrow agent engaged in the business of receiving escrows for  
deposit or delivery of the types of transactions specified in subdivision  
(c) of Section 17312 of the Financial Code and of the types of  
transactions not specified therein shall maintain separate escrow books  
and separate escrow trust accounts for each type of escrow business in  
the same manner as provided for in subsection (a).

...

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1 CCR 1737.3 provides:

2 (a) An escrow agent shall preserve for at least five years from the close  
3 of escrow:

4 (1) All bank statements of the "trust" or "escrow" account;

5 (2) All canceled checks drawn upon the "trust" or "escrow" account;

6 (3) Copies of bank deposit slips with reference to the "trust" or  
7 "escrow" account;

8 (4) All additional records reflecting banking transactions with  
9 reference to the "trust" or "escrow" account, including copies of all  
10 receipts for funds transferred from interest-bearing accounts into the  
"trust" or "escrow" account;

11 (5) The Statement of Account;

12 (6) Escrow instructions and amendments thereto;

13 (7) All additional records pertinent to the escrow transaction.

14 (b) The records referred to in paragraph (a) may be retained and  
15 provided to the Commissioner in electronic format provided that:

16 (1) The electronic records are maintained and provided in a format that  
17 allows the Commissioner or his or her authorized representatives  
18 complete access to all of the books, accounts and records. The  
19 electronic records must be provided to the Commissioner in a software  
20 format that is acceptable to the Commissioner and that the  
21 Commissioner has in his or her possession. The escrow agent shall  
22 ensure that the Commissioner and his or her authorized representatives  
23 have the ability to download and print any or all of the records that are  
24 stored and maintained electronically.

25 (2) The escrow agent shall provide any or all of the records maintained  
26 in electronic format in printed form if the electronic records are not in a  
27 format that enables the Commissioner or his or her authorized  
28 representatives to determine if the licensee is complying with the  
Escrow Law or rules, or upon the request of the Commissioner or his or  
her authorized representatives.

(3) The electronic records shall be maintained in a media that is (A)  
non-erasable "write once, read many" ("WORM") that does not allow  
changes to the stored document, (B) consistent with the minimum

1 standards of quality approved by either the National Institute of  
2 Standards and Technology or the Association for Information and  
3 Image Management, and (C) contain written authentication identifying  
the electronic record as an exact unaltered copy of the document.

4 CCR section 1738 provides:

5 (a) All money deposited in such "trust" or "escrow" account shall be  
6 withdrawn, paid out, or transferred to other accounts only in  
7 accordance with the written escrow instructions of the principals to the  
8 escrow transaction or the escrow instructions transmitted electronically  
9 over the Internet executed by the principals to the escrow transaction or  
10 pursuant to order of a court of competent jurisdiction.

11 (b) The escrow agent shall comply with, at a minimum, the following  
12 procedures for wire transfers (also known as "electronic fund  
13 transfers"):

14 (1) The instructions of the principals authorizing the wire transfer must  
15 contain, at a minimum, the amount of the funds to be wire transferred,  
16 the name of the financial institution, the account number and the  
17 account name, receiving the funds.

18 (2) The escrow agent shall retain confirmation of the wire transfer  
19 from the financial institution that contains, at a minimum, the amount  
20 of the funds wire transferred and the account number and name of the  
21 account the funds were wire transferred to.

22 (3) If necessary, the escrow books shall be properly adjusted to reflect  
23 the wire transfer of funds from the escrow account.

24 (4) The escrow agent shall maintain a proper audit trail and adequate  
25 controls and safeguards for funds disbursed by wire transfer.

26 CCR section 1738.1 provides:

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

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

1 transmitted electronically over the Internet executed by the principals to  
2 the escrow transaction, or if not otherwise directed by written or  
3 electronically executed instructions, in accordance with sound escrow  
practice, or pursuant to order of a court of competent jurisdiction.

4 CCR section 1741.3 provides:

5 Upon completion of an escrow transaction an escrow agent shall render  
6 to each principal to the escrow transaction a statement of his account in  
7 writing. Such statement shall specify all receipts and disbursements of  
8 escrow funds for his account. Charges made by the escrow agent for his  
9 services, and all disbursements by the escrow agent to a broker or  
10 salesman in connection with an escrow transaction shall be clearly  
11 designated as such and shall be shown separately from disbursements  
12 of the escrow agent. Payments outside of escrow, if shown in the  
13 statement, shall be set forth separately from payments by or to the  
14 escrow agent. Internet escrow agents may transmit the statement of  
account electronically over the Internet to the principals to the escrow  
transaction. In the event a person is not able to electronically receive  
the statement of account, the Internet escrow agent shall mail a true and  
correct copy of the statement of account within 24 hours of its  
completion.

#### 15 X.

### 16 BAR AND REVOCATION STATUTES

17 Code section 17423 provides in pertinent parts:

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

21 (1) That the censure, suspension, or bar is in the public interest and  
22 that the person has committed or caused a violation of this division or  
23 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.

24 . . .

25 (b) Within 15 days from the date of a notice of intention to issue an  
26 order pursuant to subdivision (a), the person may request a hearing  
27 under the Administrative Procedure Act (Chapter 5 (commencing with  
Section 11500) of Division 3 of Title 2 of the Government Code).  
28 Upon receipt of a request, the matter shall be set for hearing to

1 commence within 30 days after such receipt unless the person subject  
2 to this division consents to a later date. If no hearing is requested within  
3 15 days after the mailing or service of such notice and none is ordered  
4 by the commissioner, the failure to request a hearing shall constitute a  
5 waiver of the right to a hearing.

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

15 Code section 17608 provides in pertinent part:

16 The commissioner may, after notice and a reasonable opportunity to be  
17 heard, suspend or revoke any license if he finds that:

18 . . .

19 (b) The licensee has violated any provision of this division or any rule  
20 made by the commissioner under and within the authority of this  
21 division.

22 . . .

23 **XI.**

24 **CONCLUSION**

25 Complainant finds that, by reason of the foregoing, Respondent George Reyes has violated  
26 Code section 17414, subdivision (a)(1) and CCR sections 1738, 1738.1, and 1738.2 and it is in the  
27 best interest of the public to bar George Reyes from any position of employment, management or  
28 control of any escrow agent pursuant to section 17423, subdivision (a)(1) of the Code.

Complainant also finds that, by reason of the foregoing, Respondent Mary Reyes has violated  
Code section 17414, subdivision (a)(1) and CCR sections 1738, 1738.1, and 1738.2 and it is in the  
best interest of the public to bar Mary Reyes from any position of employment of any escrow agent  
pursuant to section 17423, subdivision (a)(1) of the Code.

Complainant also finds that, by reason of the foregoing, Respondent Michelle D. Reyes has  
violated Code sections 17409, 17414, subdivision (a)(1), 17421 and CCR sections 1738, 1738.1,

1 1738.2, 1741.3 and it is in the best interest of the public to bar Michelle D. Reyes from any position  
2 of employment, management or control of any escrow agent pursuant to section 17423, subdivision  
3 (a)(1) of the Code.

4 Complainant further finds that, by reason of the foregoing, Respondent Dependable Escrow  
5 Co. has violated Code sections 17210, 17404, 17405, 17406, 17414, subdivisions (a)(1) and (a)(2)  
6 and CCR sections 1730, 1732.2, 1738, 1738.1, 1738.2. Furthermore, by and through the actions of  
7 George Reyes, Mary Reyes, and Michelle D. Reyes, Dependable Escrow Co. has violated Code  
8 sections 17409, 17414, subdivision (a)(1), 17421 and CCR sections 1738, 1738.1, 1738.2, 1741.3,  
9 such that it is in the best interest of the public to revoke the escrow agent’s license issued to  
10 Dependable Escrow Co. in light of the foregoing violations of the Escrow Law.

11 WHEREFORE, IT IS PRAYED that Respondents George Reyes and Michelle D. Reyes be  
12 barred from any position of employment, management or control of any escrow agent; that Mary  
13 Reyes be barred from any position of employment of any escrow agent; and that the Commissioner  
14 revoke the escrow agent’s license issued to Dependable Escrow Co.

15 DATED: April 19, 2012  
16 Los Angeles, CA

JAN LYNN OWEN  
California Corporations Commissioner

19 By \_\_\_\_\_  
20 Blaine A. Noblett  
21 Senior Corporations Counsel  
22 Enforcement Division  
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