ALAN S. WEINGER
Deputy Commissioner
JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
Department of Corporations
320 West 4th Street, Ste. 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. A.C.T. ESCROW, INC., FERNANDO MORENO III, and VILMA M. ESCOBAR, Respondents.	)	File No.: 963-2352 ORDER BARRING FERNANDO MORENO III FROM ANY POSITION OF MANAGEMENT OR CONTROL OF ANY ESCROW AGENT

The California Corporations Commissioner ("Commissioner") finds that:

1. Respondent Fernando Moreno III ("Moreno") is, and was at all times relevant herein, the president, a stockholder, and a director of ACT Escrow, Inc. ("ACT Escrow"), 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.). Moreno was also the escrow manager at ACT Escrow's main office in Lancaster, California. aCT Escrow had its principal place of business located at 42231 6th Street W., Suite 205, Lancaster, California 93534. ACT Escrow also had a branch location situated at 2155 East Garvey Avenue North, Suite B-10, West Covina, California 91791.

2. Respondent Vilma M. Escobar ("Escobar") was at all times relevant herein an escrow officer for act Escrow. Escobar initially worked for ACT Escrow at its Lancaster office, but more

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recently worked at ACT Escrow's West Covina location.

3. On or about November 16, 2011, the Commissioner received information from Moreno that Escobar had admitted embezzling $92,000.00 in trust funds in violation of Financial Code section 17414(a)(1). Based upon such information, on or about November 17, 2011, the Commissioner, by and through staff, commenced a special examination of the books and records of ACT Escrow.

4. The special examination revealed that as of November 16, 2011, ACT Escrow had a trust account shortage of at least $400,129.98 at its main office and a trust account shortage of at least $97,676.21 at its branch office.

5. The special examination further revealed that the books and records had not been maintained at the West Covina branch since in or about February 2011 in violation of Financial Code section 17404 and California Code of Regulations, title 10, section 1732.2.

6. On or about November 16, 2011, the Commissioner made demand upon ACT Escrow to immediately open a new trust account at both offices in which all further escrow funds received by ACT Escrow would be deposited so that new escrow trust funds could remain separate from the trust funds affected by the shortage. On or about November 18, 2011, ACT Escrow opened a new trust account for the West Covina branch. On or about November 22, 2011, after further demand, ACT Escrow finally opened a new trust account for Lancaster main office. However, the special examination revealed that ACT Escrow never made use of the new trust accounts and continued to deposit new escrow funds into the old trust accounts.

7. On or about November 21, 2011, the Commissioner made written demand upon ACT Escrow to cure the trust account shortage at the main office no later than November 22, 2011. ACT Escrow failed to cure the trust account shortage at the main office except that ACT Escrow deposited $25,000.00 into the main office trust account from funds it obtained from Escobar along with a further $5,000.00 it obtained from Jose Alonso ("Alonso"), the person through which Escobar was diverting the embezzled escrow funds.

8. ACT Escrow's failure to cure the trust account shortage caused the Commissioner, on December 6, 2011, to issue an Order To Discontinue Escrow Activities Pursuant to Financial Code

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section 17415 against ACT Escrow along with a Demand For and Order Taking Possession of the Trust Account(s) and Escrow Records of ACT Escrow Pursuant to Financial Code Section 17621 and an Order Appointing Peter A. Davidson as Conservator pursuant to Financial Code section 17630. These orders were necessary to offer any possible protection to the escrow customers of ACT Escrow.

9. The special examination of ACT Escrow has yet to be completed due to the lack of books and records at the West Covina office and the extent of the lapping scheme (transfers of funds between escrows) employed by Escobar to cover her unauthorized disbursements. However, the special examination has initially disclosed that commencing on dates unknown, but at least since March 2010 and continuing through at least June 2011, Escobar made unauthorized disbursements of escrow trust funds to herself, her friend Jose Alonso ("Alonso"), and/or otherwise totaling at least $76,366.37 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements are part of the trust account shortage described in Section II above. Escobar also falsified escrow records in an attempt to cover up the unauthorized disbursements in violation of Financial Code section 17414(a)(2).

10. The unauthorized disbursements, lapping, and falsification of records disclosed initially by the special examination are described as follows:

LANCASTER ESCROW NUMBER 10-4140-VE

A. On or about March 11, 2010, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4140-VE to Alonso in the amount of $1,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement caused a debit balance (shortage) of $1,000.00 to exist in Lancaster escrow number 104140-VE in violation of California Code of Regulations, title 10, section 1738.1.

LANCASTER ESCROW NUMBER 10-4201-VE

B. On or about August 12, 2010, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4201-VE in the amount of $1,000.00 in violation of

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Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4201-VE was used to pay what appears to be a disbursement authorized in Lancaster escrow number 10-4517-VE. However, a review of the ledger for Lancaster escrow number 10-4517-VE disclosed that insufficient funds existed in Lancaster escrow number 10-4517-VE to cover this disbursement. Accordingly, a shortage of $1,000.00 will exist in Lancaster escrow number 10-4517 once the disbursement is posted to the correct escrow ledger.

LANCASTER ESCROW NUMBER 10-4331-VE

C. On or about June 17, 2010, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 11-4140-VE in the amount of $578.31 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4140-VE was used to pay what appears to be a disbursement authorized in Lancaster escrow number 10-4331-VE. A review of the ledger for Lancaster escrow number 10-4331-VE disclosed insufficient funds to cover this disbursement. Accordingly, a shortage of $578.31 in violation of California Code of Regulations, title 10, section 1738.1 will exist in Lancaster escrow number 10-4331 once the disbursement is posted to the correct escrow ledger

LANCASTER ESCROW NUMBER 10-4511-VE

D. On or about February 25, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4511-VE to Alonso in the amount of $6,350.37 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

LANCASTER ESCROW NUMBER 10-4548-VE

E. On or about October 4, 2010, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4548-VE in the amount of $2,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4548-VE was used to pay what appears to be a disbursement authorized in Lancaster escrow number 10-4201-VE. A

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review of the ledger for Lancaster escrow number 10-4201-VE disclosed insufficient funds to cover this disbursement. Once disbursements are posted to the correct escrow ledger, which will include re-posting a $1,000.00 disbursement from Lancaster escrow number 10-4201-VE to Lancaster escrow number 10-4517-VE (see item 2 above), a shortage of $1,950.00 will exist in Lancaster escrow number 10-4201-VE in violation of California Code of Regulations, title 10, section 1738.1.

LANCASTER ESCROW NUMBER 10-4805-VE

F. Commencing on or about November 18, 2010 and continuing through December 17, 2010, Escobar made six unauthorized disbursements of trust funds from Lancaster escrow number 10-4805-VE to Alonso totaling $30,657.00 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2.

LANCASTER ESCROW NUMBER 10-4843-VE:

G. On or about May 25, 2011, Escobar violated Financial Code section 17414(a)(2) when she prepared a false receipt stating that the sum of $43,100.20 had been deposited into Lancaster escrow number 10-4843-VE. A deposit of $43,100.20 had been received by Act Escrow, but it was for West Covina escrow number 11-0085-VE, and such funds had been deposited into the West Covina trust account and a receipt issued for West Covina escrow number 11-0085-VE.

H. On or about May 25, May 27, and June 10, 2011, Escobar made unauthorized disbursements of trust funds from Lancaster escrow number 10-4843-VE to Alonso in the respective amounts of $6,000.00, $5,500.00, and $7,000.00 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. In that there were no funds on deposit in Lancaster escrow number 10-4843-VE, these unauthorized disbursements caused a shortage of $18,500.00 to exist in Lancaster escrow number 10-4843-VE in violation of California Code of Regulations, title 10, section 1738.1.

I. On or about May 26, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4843-VE to the West Covina trust account in the amount of $10,000.00 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. In that there were no funds on deposit in Lancaster escrow number 10-4843-VE, this unauthorized disbursement caused the shortage in Lancaster

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escrow number 10-4843-VE to increase to $28,500.00.

J. On or about May 31, 2011, Escobar made three unauthorized disbursements of trust funds from Lancaster escrow number 10-4843-VE totaling $9,375.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay disbursements authorized in West Covina escrow number 11-0074-VE. A review of the ledger for West Covina escrow number 11-0074-VE disclosed sufficient funds to cover these disbursements. Accordingly, no shortage appears to have been caused by these disbursements once the disbursements are posted to the correct escrow ledger.

K. On or about June 2, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4843-VE in the amount of $3,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4843-VE was used to pay what appears to be an authorized refund of the buyers' deposit in West Covina escrow number 11-0060-VE. Escobar failed to issue a receipt for the deposit into West Covina escrow number 11-0060-VE in violation of Financial Code section 17414(a)(2) and California Code of Regulations, title 10, section 1732.2. However, a review of the ledger for West Covina escrow number 11-0060-VE discloses that no shortage was caused by this disbursement once the escrow ledger postings have been corrected.

L. On or about June 9, 2011, Escobar made unauthorized disbursements of trust funds from Lancaster escrow number 10-4843-VE totaling $2,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay what appears to be an authorized refund of the buyers' deposit in Lancaster escrow number 10-4140-VE. A review of the ledger for Lancaster escrow number 10-4140-VE disclosed insufficient funds to cover the disbursements due to unauthorized disbursements in Lancaster escrow number 10-4140-VE, which will cause a shortage of $1,000.00 in Lancaster escrow number 10-4140-VE to exist in violation of California Code of Regulations, title 10, section 1738.1 once the disbursements are

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posted to the correct escrow ledger (see item A above).

M. On or about June 13, 2011, Escobar made two unauthorized disbursements of trust funds from Lancaster escrow number 10-4843-VE totaling $1,464.40 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements from Lancaster escrow number 10-4843-VE were used to pay what appear to be disbursements authorized in West Covina escrow number 11-0077-VE. A review of the ledger for West Covina escrow number 11-0077-VE disclosed sufficient funds to cover these disbursements. Accordingly, no shortage appears to have been caused by these disbursements once the disbursements are posted to the correct escrow ledger.

N. On or about June 17, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4843-VE in the amount of $1,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4843-VE appears to have been used to refund an escrow deposit for an unknown escrow. From the information available to date, it does not appear that this disbursement will cause a shortage once the disbursement is posted to the correct escrow ledger.

O. On or about August 15, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4843-VE to an account at Wells Fargo Dealer Services in the amount of $15,982.60 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. In that there were no funds on deposit in Lancaster escrow number 10-4843-VE, this unauthorized disbursement caused a further shortage of $15,982.60 to exist in Lancaster escrow number 10-4843-VE in violation of California Code of Regulations, title 10, section 1738.1, increasing the total shortage in this escrow to $44,482.60.

LANCASTER ESCROW NUMBER 10-4866-VE

P. On or about April 20, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4866-VE in the amount of $2,153.00 to Alonso in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738

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and 1738.2.

Q. On or about May 3, 2011, Escobar made an unauthorized disbursement of trust funds from Lancaster escrow number 10-4866-VE in the amount of $3,000.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement from Lancaster escrow number 10-4866-VE was used to pay what appears to be a disbursement authorized in Lancaster escrow number 10-4829-VE. A review of the ledger for Lancaster escrow number 10-4829-VE disclosed insufficient funds to cover this disbursement. Accordingly, a shortage of $3,000.00 will exist in Lancaster escrow number 10-4829-VE in violation of California Code of Regulations, title 10, section 1738.1 once the disbursement is posted to the correct escrow ledger.

WEST COVINA ESCROW NUMBER 11-0040-VE:

R. On or about January 14, January 21, and February 11, 2011, Escobar made unauthorized disbursements of trust funds from West Covina escrow number 11-0040-VE to Alonso in the respective amounts of $5,000.00, $3,000.00, and $3,706.00 in violation of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements caused a shortage of at least $11,706.00 to exist in this escrow in violation of California Code of Regulations, title 10, section 1738.1 because insufficient funds existed to cover these disbursements once the false receipt described in paragraph S below is reversed.

S. On or about January 27, 2011, Escobar violated Financial Code section 17414(a)(2) when she prepared a false receipt stating that the sum of $12,900.00 had been deposited into West Covina escrow number 11-0040-VE. A deposit of $12,900.00 had been received by Act Escrow, but it was for West Covina escrow number 11-0046-VE, and such funds had been deposited into the West Covina trust account and a receipt issued in West Covina escrow number 11-0046-VE.

T. On or about February 1, 2011, Escobar made two unauthorized disbursements of trust funds from West Covina escrow number 11-0040-VE totaling $1,194.00 in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. These unauthorized disbursements from West Covina escrow number 11-0040-VE were used to pay

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what appear to be disbursements authorized in Lancaster escrow number 10-4548-VE. A review of the ledger for Lancaster escrow number 10-4548-VE disclosed sufficient funds to cover these disbursements. Accordingly, no shortage appears to have been caused by these disbursements once the disbursements are posted to the correct escrow ledger, which would include re-posting a $2,000.00 disbursement from Lancaster escrow number 10-4548-VE to Lancaster escrow number 10-4201-VE (see item E above).

WEST COVINA ESCROW NUMBER 11-0046-VE

U. On or about April 6, 2011, Escobar made an unauthorized disbursement of trust funds from West Covina escrow number 11-0046-VE in the amount of $6,000.00 to Alonso in violation of Financial Code section 17414(a)(1) and California Code of Regulations, title 10, sections 1738 and 1738.2. This unauthorized disbursement caused a shortage of at least $6,000.00 to exist in this escrow in violation of California Code of Regulations, title 10, section 1738.1 because insufficient funds existed to cover this disbursement once the false receipt described in paragraph V below is reversed.

V. On or about April 12, 2011, Escobar violated Financial Code section 17414(a)(2) when she prepared a false receipt stating that the sum of $110,262.74 had been deposited into West Covina escrow number 11-0046-VE. A deposit of $110,262.74 had been received by Act Escrow, but it was for Lancaster escrow number 10-4866-VE, and such funds had been deposited into the West Covina trust account and a receipt issued in Lancaster escrow number 10-4866-VE.

11. The above-described violations constitute grounds under Financial Code section 17423 to bar a person from any position of employment, management or control under the Escrow Law.

12. On May 14, 2012, the Commissioner issued a Notice of Intention to Issue Order Revoking Escrow Agent's License and to Issue Orders Pursuant to California Financial Code Section 17423 (Bar From Employment, Management or Control of Any Escrow Agent), Accusation and accompanying documents against ACT Escrow, Moreno and Escobar based upon the above. Moreno was personally served on May 17, 2012. The Department has received no request for a hearing from Moreno and the time to request a hearing has expired.

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NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Respondent Fernando Moreno III is barred from any position of management or control of any escrow agent.

Dated: June 4, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner
Enforcement Division

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