

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF) Case No.
CALIFORNIA,)
12) COMPLAINT IN INTERPLEADER
Plaintiff in Interpleader,)
13)
14 vs.)
15)
16 ABEL OROZCO, ATHALA OROZCO,)
EDGAR FRAGOSO, EVA MENESES, STATE)
17 OF CALIFORNIA BOARD OF)
EQUALIZATION, and DOES 1 through 5,)
18 inclusive,)
19 Defendants In Interpleader.)
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21 Plaintiff, the People of the State of California, by and through the California Corporations
22 Commissioner, alleges as follows:

23 1. Star Escrow Co., Inc. (“Star”) was at all relevant times a corporation duly organized
24 and existing under the laws of the State of California and engaged in business as an escrow agent.
25 Star operated its escrow business under the authority of the California Corporations Commissioner
26 (“Plaintiff” or “Commissioner”). Star Escrow had its principal place of business located at 3929
27 Tweedy Boulevard, South Gate, California 90280.

28 2. On or about April 1, 2009, plaintiff appointed his Special Administrator of the

1 Escrow Law for the California Department of Corporations, Kathleen Partin, as limited conservator
2 over the trust account(s) and all bank and escrow records pertinent thereto of Star pursuant to the
3 authority granted him under Financial Code section 17630.

4 3. Defendant Abel Orozco is, and at all times relevant hereto was, co-owner of a
5 restaurant and nightclub located in South Gate, California known as El Parral, and also a party to
6 Star escrow number 41832-CW.

7 4. Defendant Athala Orozco is, and at all times relevant hereto was, co-owner of El
8 Parral, and also a party to Star escrow number 41832-CW.

9 5. Defendant Edgar Fragoso (“Fragoso”) is, and at all times relevant hereto was, a
10 resident of Los Angeles County and a party to Star escrow number 41832-CW.

11 6. Defendant Eva Meneses (“Meneses”) is, and at all times relevant hereto was, a
12 resident of Los Angeles County and a party to Star escrow number 41832-CW.

13 7. Defendant State of California Board of Equalization is an agency of the State of
14 California responsible for collection of state sales tax from retailers among other things, and is, and
15 was at all times relevant herein, a lienholder against defendants Abel and Athala Orozco individually
16 and doing business as El Parral.

17 8. Defendants Doe 1 through 5, inclusive, are individuals, corporations, partnerships or
18 other entities whose identity and form is unknown to Plaintiff, who therefore sues said defendants
19 under such fictitious names, pursuant to the provisions of Section 474 of the California Code of Civil
20 Procedure. Plaintiff hereby asks leave of the Court to amend this complaint to allege the true names
21 and capacities of such defendants at such time as the same have been ascertained. Plaintiff is
22 informed and believes and based upon such information and belief alleges that defendants Doe 1
23 through 5, inclusive, at all times mentioned herein, is making or has made a claim to the escrow
24 funds described herein below, which is conflicting with the claims of named defendants herein.

25 9. On or about August 24, 2009, Plaintiff seized the funds being held in Star’s trust
26 account, which included \$98,534.25 for Star escrow number 41832-CW.

27 10. The funds described in paragraph 9 above were deposited into a special interest
28 bearing account held by the Department of Corporations with interest accruing thereon respectively

1 through December 31, 2010.

2 11. Contemporaneously with the filing of this complaint, Plaintiff has deposited with the
3 Clerk of the Los Angeles County Superior Court the sums representing the seized funds; \$98,534.25,
4 plus accrued interest in the amount of \$343.36, for a total of \$98,877.61.

5 **Summary of Star Escrow Number 41832-CW**

6 10. Plaintiff is informed and believes and thereon alleges that:

7 (a) On or about January 22, 2008, defendants Abel and Athala Orozco, Fragoso, and
8 Meneses opened escrow number 41832-CW with Star wherein defendants Abel and Athala Orozco
9 were selling their restaurant and nightclub, El Parral, to include the liquor license, to defendants
10 Fragoso and Meneses for the sum of \$100,000.00.

11 (b) Defendant State of California Board of Equalization (“BOE”) had tax liens
12 against defendants Abel and Athala Orozco, individually and doing business as El Parral, and that on
13 or about April 17, 2008 BOE filed a demand for payment in Star escrow number 41832-CW for the
14 full amount of the consideration; \$100,000.00.

15 (c) Defendants Fragoso and Meneses took possession of, and began operating, El
16 Parral, and were also able to obtain a temporary liquor license, although a permanent liquor license
17 has not been granted due to the pending tax liens against the business.

18 11. On or about October 6, 2009, BOE filed a claim with Plaintiff against Star in the
19 amount of \$100,000.00, which BOE claimed to be due and owing in Star escrow 41832-CW.

20 12. A review of the documents submitted by BOE, including the escrow instructions
21 which Plaintiff was not previously in possession of, disclosed that Star escrow 41832-CW had yet to
22 close when Plaintiff appointed its Special Administrator as conservator on or about April 1, 2009.

23 13. A review of the trust account bank records of Star disclosed that the sum of
24 \$99,089.25 had been deposited into escrow number 41832-CW. Star had issued 4 checks totaling
25 \$555.00, leaving \$98,534.25 on deposit for escrow number 41832-CW.

26 14. In or about April 2010, Plaintiff enlisted an independent escrow agent to bring escrow
27 number 41832-CW to a close. However, the independent escrow agent has been unable to get signed
28 instructions from the Defendants in Interpleader as to how to disburse the remaining escrow funds.

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15. Given the defendants' competing claims for the funds seized from the Star trust account, Plaintiff cannot determine which of the Defendants in Interpleader are entitled to the funds and cannot pay any part of the funds without risk of being sued by each of the defendants herein.

16. Plaintiff files this interpleader action in good faith and without any collusion with any of the parties hereto. Plaintiff claims no interest in the funds seized from Star. In seizing the funds, Plaintiff acted to restrain further dissipation of trust funds held by Star.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment against Defendants in Interpleader and each of them as follows:

- 1. That the Defendants in Interpleader and each of them be required to interplead and litigate among themselves their claims to the funds described above.
- 2. That the Court determine and enter an order setting forth the proper recipients of the funds.
- 3. That Plaintiff, and his employees and agents be discharged from any and all liability on account of the claims of the Defendants in Interpleader and each of them.
- 4. That Plaintiff be dismissed from this action with prejudice following payment of the proceeds into the registry of the Court.
- 5. That Plaintiff be awarded its costs in bringing this action to be determined by the Court and be paid out of the funds.
- 6. For such other and further relief as the Court deems just and equitable under the circumstances.

Dated: January 26, 2011

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
JUDY L. HARTLEY
Senior Corporations Counsel
Attorneys for Plaintiff