

**FILED**

SEP 26 2013

DEPARTMENT OF REAL ESTATE  
BY: 

1 Elliott Mac Lennan, Counsel (SBN 66674)  
2 Bureau of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982  
5 Direct: (213) 576-6911  
6 Facsimile: (213) 576-6917

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BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 )  
13 P & G PROFESSIONAL & GUARANTEED ) No. H- 39054 LA  
14 ESCROW SERVICES CORP, doing business )  
15 as P & G Professional & Guaranteed Escrow ) ACCUSATION  
16 Services Corp; and )  
17 )  
18 JULIO CESAR MARTINEZ, individually )  
19 and as designated officer of P & G )  
20 Professional & Guaranteed Escrow Services )  
21 Corp, )  
22 )  
23 Respondents, )

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26  
The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against P & G PROFESSIONAL & GUARANTEED ESCROW SERVICES CORP ("P & G") and JULIO CESAR MARTINEZ ("MARTINEZ"), individually and as designated officer of P & G Professional & Guaranteed Escrow Services Corp (collectively "Respondents"), is informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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2.

From March 15, 2010, Respondent P & G has been licensed as a real estate corporate broker. At all times relevant herein, P & G was acting by and through Respondent MARTINEZ as its former designated broker-officer from its inception on March 15, 2010, pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. P & G became Non-Broker Affiliated as of March 29, 2013, due to the cancellation of MARTINEZ' tenure as P & G's designated officer.

3.

From June 22, 2007, Respondent MARTINEZ has been licensed as a real estate broker. From March 15, 2010 MARTINEZ has been the designated officer of P & G, until his cancellation on March 29, 2013.

4.

P & G is owned by Paula Jimenez, an unlicensed person and P & G's secretary.

Table: Professional & Guaranteed Escrow Services Corp: Management and Licensure

Name	Title	License Status
Paula Jimenez	Secretary	Unlicensed
Jorge Rodriguez	President	Unlicensed

5.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents," such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment including Paula Jimenez, Jorge Rodriguez, Brianna Montez and MARTINEZ.



1 from or on behalf of actual or prospective parties to real estate transactions, including escrow  
2 services provided by P & G's in-house escrow division. Thereafter P & G made deposits and  
3 disbursements of said trust funds. From time to time mentioned during the audit period, said  
4 escrowed trust funds were deposited and/or maintained by P & G in the trust account below:  
5

6 Trust Account 1: (TA 1)

7 Bank: Wells Fargo Bank  
8 Portland, OR 97220-6992, and  
9 Upland, CA 91876

10 Account Name: P & G Professional & Guaranteed Escrow Services  
11 Corp Trust Account

12 Account Number: \*\*\*\*\*6964  
13

14 Violations of the Real Estate Law

15 9.

16 In the course of activities described in Paragraphs 6B and 8, above, and during  
17 the examination period, described in Paragraph 7, Respondents P & G and MARTINEZ, acted  
18 in violation of the Code and the Regulations in which Respondents:

19 (a) 18210 Oxnard St. Unit 138, Tarzana, California (Escrow No. 30132-09).

20 A Bureau audit and investigation revealed that through its in-house, broker-  
21 controlled escrow division, P & G was the escrow agent for the sale of the real property located  
22 at 18210 Oxnard St., Unit 138, in Tarzana, California ("18210 Oxnard St.") for which a forged  
23 Deed of Trust, was recorded in the Los Angeles County Recorder's office.  
24

25 The "Supplemental Escrow Instructions" provided to the Bureau recited that  
26 subject property, 18210 Oxnard St was for sale by Saltanat S. ("Seller"), the owner of said

1 property. Escrow opened on February 9, 2011 at a selling price of \$250,000.00. The escrow  
2 officer for P&G's in-house escrow transaction was Briana Montez an employee of P & G.

3           The HUD 1 Closing Statement dated March 29, 2011, recited Sergey S., ("Buyer/  
4 Borrower") obtained a \$200,000.00 loan on the subject property from Just Mortgage Inc.  
5 ("Lender"), a real estate broker. Although set to expire on April 7, 2014, Just Mortgage Inc.  
6 became Non-Broker Affiliated, effective February 13, 2012. The loan agent for the 18210  
7 Oxnard St. loan was Primary Benefit Lending, a licensed fictitious business name of Mazlat  
8 Inc., a real estate broker. The Payoff Worksheet of Pacific Coast Title Company showed that  
9 title proceeds of \$192,314.09 were wired to P & G on March 31, 2011. P&G's TA 1's bank  
10 statement reflected said wired sum. The HUD 1 Closing Statement indicated \$250,000.00 as  
11 cash due to Seller Saltanat S. and \$63,708.21 as cash due from Buyer/Borrower Sergey S.  
12

13           A voided check in the escrow file disclosed that P & G issued a check (No. 1299)  
14 to Seller for \$177,256.67 on April 6, 2011, issued from TA 1. However, this check had a hand  
15 written notation of "paid wired" on it. TA 1's bank statement showed \$55,000.00 wired to  
16 Haim Knafo ("Knafo"), a person unrelated to the sale, loan or escrow of the 18210 Oxnard St.  
17 property, on April 4, 2011 and \$122,256.67 wired to Seller on April 6, 2011. These wired  
18 transfers when juxtaposed against the Deed of Trust recorded reveal a false and fraudulent  
19 scheme to divert escrow funds from escrow due to the Seller through the instrumentality of  
20 diverting escrow trust funds in a double scheme of writing a \$177,256.67 to Seller, though  
21 actually wiring \$55,000.00 to a person unrelated to the escrow, Haim Knafo. This diversion of  
22 trust funds via fraudulently mis-labeling or handling check No 1299, constitutes the equivalent  
23 of keeping a double set of books and a dual version of accounting records, in violation of Code  
24 Sections 10145, 10176(i) and/or 10177(g) and Regulations 2950(d) and 2951;  
25  
26

1 (b) Permitted Paula Jimenez, Secretary of P & G, an unlicensed and unbonded  
2 person, to be authorized signatory on TA 1, the escrow trust account, in violation of Code  
3 Section 10145 and Regulation 2834(a), 2950(d) and 2951. MARTINEZ was not a signatory on  
4 TA 1, in violation of Code Section 10145 and Regulation 2834(b), 2950(d) and 2951; and  
5

6 (c) Failed to retain all records of P & G's activities requiring a real estate broker  
7 license during the past three years, in violation of Code Section 10148. The trust account  
8 records and the complete escrow files for the 18210 Oxnard St. property were not provided.  
9

10 10.

11 The conduct of Respondents P & G and MARTINEZ, described in Paragraph 9,  
12 above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 9(a)	Code Sections 10145, 10176(i) and/or 10177(g) and Regulations 2950(d) 15 and 2951
16 9(b)	Code Section 10145 and Regulations 2834, 2950(d) and 2951
17 9(c)	Code Section 10148

18 The foregoing violations constitute cause for discipline of the real estate licenses and license  
19 rights of Respondent P & G under the provisions of Code Sections 10176(i), 10177(d) and  
20 10177(g); and Respondent MARTINEZ under the provisions of Code Sections 10148 and  
21 10177(d) and 10177(g).

22 SECOND CAUSE OF ACCUSATION  
(Negligence)

23 11.

24 The overall conduct of Respondents P & G and MARTINEZ constitutes  
25 negligence and is cause for discipline of the real estate license and license rights of said  
26 Respondents pursuant to the provisions of Code Section 10177(g).

1 THIRD CAUSE OF ACCUSATION

2 (Fiduciary Duty)

3 12.

4 The conduct, acts and omissions of Respondents P & G and MARTINEZ  
5 constitute a breach of fiduciary duty, owed to P & G's clients and trust fund beneficiaries of  
6 good faith, trust, confidence and candor, within the scope of their contractual and escrow  
7 relationship, in violation of Code Section 10177(g) and constitutes cause for discipline of the  
8 real estate license and license rights of said Respondents pursuant to the provisions of said Code  
9 Section.

10 FOURTH CAUSE OF ACCUSATION

11 (Supervision and Compliance)

12 13.

13 The overall conduct of Respondent MARTINEZ constitutes a failure on said  
14 Respondent's part, as officer designated by a corporate broker licensee, to exercise the  
15 reasonable supervision and control over the licensed activities of P & G as required by Code  
16 Section 10159.2 and Regulation 2725, and to keep P & G in compliance with the Real Estate  
17 Law, and is cause for discipline of the real estate license and license rights of Respondent  
18 pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h). Respondent  
19 MARTINEZ was not a signatory on the escrow trust account. Nor did he have and maintain a  
20 written agreement with P & G for its supervision.

21 14.

22 Code Section 10106 provides, in pertinent part, that in any order issued in  
23 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may  
24 request the administrative law judge to direct a licensee found to have committed a violation of  
25 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
26 the case.

1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all licenses and/or license rights of Respondents P & G PROFESSIONAL &  
4 GUARANTEED ESCROW SERVICES CORP and JULIO CESAR MARTINEZ, individually  
5 and as designated officer of P & G Professional & Guaranteed Escrow Services Corp under the  
6 Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) and for  
7 such other and further relief as may be proper under other applicable provisions of law,  
8 including, but not limited to, costs of audit, investigation and enforcement.  
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10 Dated at Los Angeles, California.  
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12 this 23 day of September, 2013.  
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14   
15 ROBIN TRUJILLO  
16 Deputy Real Estate Commissioner  
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23 cc: P & G Professional & Guaranteed Escrow Services Corp  
24 Julio Cesar Martinez  
25 Robin Trujillo  
26 Audits – Gina King  
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