

FILED

JUL 10 2015

BUREAU OF REAL ESTATE

By John Guil

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

P & G PROFESSIONAL & GUARANTEED)
ESCROW SERVICES CORP, doing business)
as P & G Professional & Guaranteed Escrow)
Services Corp; and)

No. H-39054 LA

JULIO CESAR MARTINEZ, individually)
and as designated officer of P & G)
Professional & Guaranteed Escrow Services)
Corp,)

Respondents,)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on June 11, 2015, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent P & G PROFESSIONAL & GUARANTEED ESCROW SERVICES CORP's ("P & G") express admissions; (2) affidavits; (3) Bureau Audit Report LA 120239; (4) Investigative Case Analysis; and (5) other evidence.

FACTUAL FINDINGS

1.

On September 23, 2013, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed to Respondent's last known mailing addresses on file with the Bureau on September 25, 2013, by certified mail and on November 7, 2013 by certified mail.

2.(a)

On June 11, 2015, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent P & G PROFESSIONAL & GUARANTEED ESCROW SERVICES CORP's default was entered herein.

2.(b)

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

License Status

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.

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.

At all times mentioned, in the City of Buena Park, County of Los Angeles, Respondents P & G and MARTINEZ acted as real estate brokers and conducted licensed activities within the meaning of California Financial Code Section 17006(a)(4).

P & G conducted broker-controlled escrows through its escrow division, under the exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction where the broker is a party and where the broker is performing acts for which a real estate license is required. P & G's escrow division acted as the escrow agent for the sale of 18210 Oxnard St. Unit 138, Tarzana, California, more fully set forth below in Paragraph 8(a).

(Audit)

6.

On June 20, 2013, the Bureau attempted to complete an audit examination of the books and records of Respondent P & G pertaining to the broker-controlled escrow activities described in Paragraph 5, which require a real estate license. The audit examination covered a period of time beginning on April 1, 2010 and ending on January 31, 2013. The audit examination revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations ("Regulations") set forth in the following paragraphs, and more fully set forth in Audit Report LA 120239 and the exhibits and work papers attached thereto.

Trust Account

7.

At all times mentioned, in connection with the activities described in Paragraph 5, above, P & G accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to real estate transactions, including escrow services provided by P & G's in-house escrow division. Thereafter P & G made deposits and disbursements of said trust funds. From time to time mentioned during the audit period, said escrowed trust funds were deposited and/or maintained by P & G in the trust account below:

Trust Account 1: (TA 1)

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

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

Account Number: *****6964

Audit Violations

8.

In the course of activities described in Paragraphs 5 and 7, above, and during the examination period, described in Paragraph 6, Respondent P & G, acted in violation of the Code and the Regulations in which Respondent:

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

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

The "Supplemental Escrow Instructions" provided to the Bureau recited that subject property, 18210 Oxnard St was for sale by Saltanat S. ("Seller"), the owner of said property. Escrow opened on February 9, 2011 at a selling price of \$250,000.00. The escrow officer for P&G's in-house escrow transaction was Briana Montez an employee of P & G.

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

A voided check in the escrow file disclosed that P & G issued a check (No. 1299) to Seller for \$177,256.67 on April 6, 2011, issued from TA 1. However, this check had a hand written notation of "paid wired" on it. TA 1's bank statement showed \$55,000.00 wired to Haim Knafo ("Knafo"), a person unrelated to the sale, loan or escrow of the 18210 Oxnard St. property, on April 4, 2011 and \$122,256.67 wired to Seller on April 6, 2011. These wired transfers when juxtaposed against the Deed of Trust recorded reveal a false and fraudulent scheme to divert escrow funds from escrow due to the Seller through the instrumentality of diverting escrow trust funds in a double

scheme of wiring a \$177,256.67 to Seller, though actually wiring \$55,000.00 to a person unrelated to the escrow, Haim Knafo. This diversion of trust funds via fraudulently mis-labeling or handling check No 1299, constitutes the equivalent of keeping a double set of books and a dual version of accounting records, in violation of Code Sections 10145, 10176(i) and/or 10177(g) and Regulations 2950(d) and 2951;

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

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

(Negligence)

9.

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

(Fiduciary Duty)

10.

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

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DETERMINATION OF ISSUES

The conduct of Respondent P & G, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

1.

<u>Paragraph</u>	<u>Provisions Violated</u>
8(a)	Code Sections <u>10145</u> , <u>10177(j)</u> and <u>10177(g)</u> and Regulations <u>2950(d)</u> and <u>2951</u> for fraud and dishonest dealing
8(b)	Code Section 10145 and Regulations <u>2834</u> , <u>2950(d)</u> and <u>2951</u> and for unlicensed person as a signatory on escrow trust account and for Martinez not a signatory on said account
8(c)	Code Section <u>10148</u> for failure to retain records

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondent P & G under the provisions of Code Sections 10177(j), 10177(d) and 10177(g).

2.

The conduct of Respondent P & G, as described in Finding 9, above, is in violation of Code Section 10177(g) for negligence and is constitute cause for discipline.

3.

The conduct of Respondent P & G, as described in Finding 10, above, is in violation of Code Section 10177(g) for breach of fiduciary duty and is cause for discipline.

4.

The conduct of Respondent P & G, as described in Finding 11, above, is in violation of Code Sections 10177(d), 10177(g) and 10177(h) for violation of the Real Estate Law, negligence and for lack of supervision and is cause for discipline.

5.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

The real estate license and license rights of Respondent P & G
PROFESSIONAL & GUARANTEED ESCROW SERVICES CORP under the
provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on JUL 30 2015, 2015

DATED: July 3, 2015

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to be "J. Mason", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

By: JEFFREY MASON
Chief Deputy Commissioner

1 Bureau of Real Estate
320 West 4th Street, Ste. 350
2 Los Angeles, California 90013-1105
3 (213) 576-6982

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By *[Signature]*

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DEFAULT ORDER

18 Respondent P & G PROFESSIONAL & GUARANTEED ESCROW
19 SERVICES CORP having failed to file a Notice of Defense within the time required by
20 Section 11506 of the Government Code is now in default. It is therefore ordered that a
21 default be entered on the record in this matter.

IT IS SO ORDERED

JUNE 11, 2015

Real Estate Commissioner

[Signature]

By: PHILLIP IHDE
Regional Manager