

1 CHERYL D. KEILY, SBN# 94008  
2 Bureau of Real Estate  
3 320 West Fourth Street, Ste. 350  
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6905

**FILED**

**FEB 01 2016**

**BUREAU OF REAL ESTATE**

By John Grant

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10 BUREAU OF REAL ESTATE

11 STATE OF CALIFORNIA

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13 In the Matter of the Accusation of ) No. H- 40122 LA  
14 )  
15 FRANKLIN EQUITY CORPORATION, )  
16 doing business as Signature Escrow )  
17 Service, a non-independent broker escrow; )  
18 and ANDRES OMAR PACHECO, )  
19 individually, and as designated officer for )  
20 Franklin Equity Corporation, )  
21 Respondents. )  
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25 )

26 The Complainant, Maria Suarez, a Supervising Special Investigator, for cause of  
27 Accusation against Respondents FRANKLIN EQUITY CORPORATION, doing business as  
Signature Escrow Service, a non-independent broker escrow ("FRANKLIN"); and ANDRES  
OMAR PACHECO ("PACHECO"), individually, and as designated officer for FRANKLIN,  
(sometimes collectively referred to as Respondents) is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Supervising Special Investigator, makes this  
Accusation in her official capacity.

1 Accusation in her official capacity.

2 2.

3 FRANKLIN is presently licensed and/or has license rights under the Real Estate  
4 Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real  
5 estate corporation acting by and through PACHECO as its designated broker-officer. The broker  
6 license of FRANKLIN is scheduled to expire on February 12, 2016.

7 3.

8 PACHECO is presently licensed and/or has license rights under the Real Estate  
9 Law as a real estate broker. At all times relevant herein PACHECO was the designated officer of  
10 FRANKLIN. The broker license of PACHECO is scheduled to expire on June 9, 2019.

11 4.

12 FRANKLIN is authorized to use the fictitious business name "Signature Escrow  
13 Service, a non-independent broker escrow."

14 5.

15 All further references to respondents herein includes FRANKLIN and  
16 PACHECO, and also includes officers, directors, employees, agents and real estate licensees  
17 employed by or associated with FRANKLIN and PACHECO, and who at all times herein  
18 mentioned were engaged in the furtherance of the business or operations of FRANKLIN and  
19 PACHECO, and who were acting within the course and scope of their authority and employment.

20 6.

21 At all times relevant herein PACHECO, as the officer designated by FRANKLIN,  
22 pursuant to Section 10211 of the Code, was responsible for the supervision and control of the  
23 activities conducted on behalf of FRANKLIN by its officers and employees as necessary to  
24 secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

25 7.

26 PACHECO ordered, caused, authorized or participated in the conduct of  
27 FRANKLIN, as is alleged in this Accusation.

1 ///

2 8.

3 At all times relevant herein Respondents were engaged in the business of, acted in  
4 the capacity of, advertised or assumed to act as real estate brokers and/or real estate corporations  
5 in the State of California, within the meaning of Code Sections 10131(a). Said activities included  
6 soliciting sellers and buyers for the listing, sale and purchase of real property, negotiating the  
7 purchase and sale of real property on behalf of buyers and sellers, including negotiating short  
8 sales of real property on behalf of buyers and sellers, for compensation or in expectation of  
9 compensation.

10 9.

11 Respondents also conducted broker-controlled escrows through the escrow  
12 division of FRANKLIN, using the unauthorized fictitious business name "Signature Escrow  
13 Service," under the exemption set forth in California Financial Code Section 17006(a)(4) for real  
14 estate brokers performing escrows incidental to a real estate transaction where the broker is an  
15 agent or a party to the transaction and in which the broker is performing acts for which a real  
16 estate license is required.

17 FIRST CAUSE OF ACCUSATION

18 (Audit Violations)

19 10.

20 On or about August 31, 2015, the Bureau completed an audit examination of the  
21 books and records of Respondent FRANKLIN pertaining to the real estate activities described in  
22 Paragraph 8 and 9, above, covering a period from April 1, 2012, to March 31, 2015.

23 11.

24 At all times mentioned herein, and in connection with the activities described in  
25 Paragraphs 8 and 9, above, FRANKLIN accepted or received funds to be held in trust ("trust  
26 funds") from or on behalf of actual or prospective parties to transactions handled by  
27 Respondents, and thereafter made deposits and/or disbursements of such funds. From time-to-

1 time herein mentioned during the audit period, said trust funds were deposited into a bank  
2 account maintained by Respondents as follows:

3 B/A #1

4 Account Name: Franklin Equity Corporation

5 Account No. xxxxxxxx4032

6 Bank Name: US Bank N.A., P.O. Box 1800, St. Paul, Minnesota 55101

7 Signatories: PACHECO

8 Opened: July 26, 2012

9 Signatories: One (1) signature required

10 12.

11 The audit examination revealed violations of the Code by Respondents, as set  
12 forth in the following paragraphs, and more fully discussed in Audit Report No. LA 140151 and  
13 the exhibits and work papers attached to the audit report:

14 (a) Respondents permitted, allowed or caused the withdrawal or disbursement of  
15 trust funds from the escrow trust account maintained as B/A #1 so that the trust account had a  
16 minimum shortage of \$904,116.13 as of March 31, 2015. The shortage was caused by minimum  
17 bank charges of \$2,826.01; minimum unauthorized disbursements to PACHECO'S personal  
18 account, debit cards, and customer/electronic withdrawals totaling \$308,333.86; minimum  
19 unauthorized/disbursement wire debits and checks with no escrow reference number totaling  
20 \$388,901.47; and minimum unidentified shortage totaling \$204,054.79.

21 Respondents caused, permitted and/or allowed the withdrawal or disbursement of  
22 trust funds from the trust account maintained at US Bank N.A. so that the total of aggregate  
23 funds remaining in the account was less than the existing aggregate trust fund liability of  
24 FRANKLIN to every principal who was an owner of said funds without first obtaining the prior  
25 written consent of the owners of said funds as is required by Code Section 10145(a) and Sections  
26 2832.1 and 2951, Title 10, Chapter 6, Code of Regulations ("Regulations").

27 (b) Respondents failed to designate BA #1 as a trust account in violation of Code

1 Section 10145 and Sections 2832, 2950(d) and 2951 of the Regulations.

2 (c) Respondents failed to maintain a control record in the form of a columnar  
3 record in chronological order of all trust funds received, deposited and disbursed for BA #1 in  
4 violation of Code Section 10145 and Sections 2831, 2950(d) and 2951 of the Regulations.

5 (d) Respondents failed to maintain a separate record for each beneficiary of trust  
6 funds received and disbursed from BA #1. The auditor used BA #1's bank statements, cancelled  
7 checks, withdrawal slips, records of deposits provided by US Bank N.A. pursuant to a subpoena  
8 duces tecum to reconstruct the separate records to determine the minimum accountability in  
9 violation of Code Section 10145 and Code Sections 2831.1, 2950(d) and 2951.

10 (e) Respondents failed to maintain a monthly reconciliation comparing the  
11 balance of all separate records to the balance of the record of trust funds received and disbursed  
12 (control record) for BA #1 in violation of Code Section 10145 and Sections 2831.2, 2950(d) and  
13 2951 of the Regulations.

14 (f) Based on three (3) months (January 2015 to March 2015) reconstruction of BA  
15 #1, using records provided by US Bank N.A. pursuant to a subpoena duces tecum, Respondents  
16 had minimum unauthorized disbursements from BA #1 to designated officer PACHECO's  
17 personal account, debit cards and customer/electronic withdrawals totaling \$308,333.86. The  
18 balance of BA #1 was reduced to an amount that was less than the amount of trust funds  
19 deposited. Respondents issued checks and wire debits totaling \$388,901.47 from BA #1 without  
20 the written instruction of the party or parties depositing funds into escrow. The foregoing is in  
21 violation of Code Sections 10145, 10176(i) and/or 10177(j) and Sections 2950(g) and 2951 of  
22 the Regulations.

23 (g) Respondents collected trust funds in the course of performing escrow services  
24 which were deposited to BA #1 and commingled with funds of Respondents disbursed from BA  
25 #1 for personal/operating expenses in violation of Code Sections 10145 and 10176(e) and  
26 Sections 2932 and 2951 of the Regulations.

27 (h) Respondents used a fictitious business name, "Signature Escrow Service," for

1 activities requiring the issuance of a real estate license without filing an application for the use of  
2 such name with the Bureau in violation of Code Section 10159.5 and Section 2731(a) of the  
3 Regulations.

4 (i) Respondents did not fully disclose in writing to all principals that FRANKLIN  
5 and PACHECO have an interest as a stockholder, officer, partner, or owner of the agency holding  
6 the escrow in violation of Code Section 10145 and Section 2950(h) of the Regulations.

7 (j) Respondents engaged in real estate activities when the Franchise Tax Board of  
8 the State of California had suspended the powers, rights and privileges of FRANKLIN pursuant  
9 to the provisions of the California Revenue and Taxation Code in violation of Code Section  
10 10177(f) and Section 2742(c) of the Regulations.

11 (k) Despite the service of a subpoena duces tecum served on PACHECO,  
12 Respondents failed to provide for examination all the books and records related to Respondents'  
13 real estate activities, including BA #1's bank statements, bank signature cards, deposit receipts,  
14 cancelled checks, records of receipt and disbursements, separate records, records of  
15 reconciliation, escrow transaction files and an accurate escrow log related to Respondents' broker  
16 escrow activity in violation of Code Section 10148 and Section 2950(e) of the Regulations.

17 (l) PACHECO failed to adequately supervise real estate activities conducted by  
18 FRANKLIN's salespersons and employees and, further, failed to establish policies, rules,  
19 procedures and systems to review, oversee, inspect and manage transactions requiring a real  
20 estate license and the handling of trust funds in violation of Code Sections 10159.2 and 10177(h)  
21 and Section 2725 of the Regulations.

22 DISCIPLINARY STATUTES AND REGULATIONS

23 13.

24 The conduct of Respondents described in Paragraph 12, above, violated the Code  
25 and the Regulations as set forth below:

26 PARAGRAPH

PROVISIONS VIOLATED

27 12(a)

Code Section 10145(a); Sections 2832.1 and 2951 of the

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Regulations

- 12(b) Code Section 10145; Section 2832, 2950(d) and 2951 of the Regulations
- 12(c) Code Section 10145 and Sections 2831, 2950(d) and 2951 of the Regulations.
- 12(d) Code Section 10145 and Code Sections 2831.1., 2950(d) and 2951 of the Regulations
- 12(e) Code Section 10145 and Sections 2831.2, 2950(d) and 2951 of the Regulations.
- 12(f) Code Sections 10145, 10176(i) and/or 10177(j) and Section 2950(g) and 2951 of the Regulations.
- 12(g) Code Sections 10145 and 10176(e) and Sections 2932 and 2951 of the Regulations.
- 12(h) Code Section 10159.5 and Section 2731(a) of the Regulations.
- 12(i) Code Section 10145 and Section 2950(h) of the Regulations.
- 12(j) Code Section 10177(f) and Section 2742(c) of the Regulations.
- 12(k) Code Section 10148 and Section 2950(e) of the Regulations.

14.

The foregoing violations, as set forth hereinabove, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondents FRANKLIN and PACHECO under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence or incompetence.

SECOND CAUSE OF ACCUSATION

(Misrepresentation, False Promise and Fraud and/or dishonest dealing)

15.

1 Complainant hereby incorporates by reference the allegations set forth in  
2 Paragraphs 1 through 14, above.

3 12028 Lasselle Street Transaction

4 16.

5 On or about June 30, 2014, Thomas W. executed an offer to purchase the real  
6 property located at 12028 Lasselle Street, Moreno Valley, CA 92557 ("Lasselle Street Property")  
7 as a short sale for a purchase price of \$190,000. The written offer by Thomas W. contained a  
8 provision acknowledging the receipt of his earnest money deposit in the amount of \$20,000, and  
9 provided that escrow would be handled by Respondent FRANKLIN's escrow division, Signature  
10 Escrow Service. Escrow was subsequently opened at Signature Escrow Service as Escrow No.  
11 14-6253-JR.

12 17.

13 Thereafter, Thomas W. was informed that the purchase price had been approved  
14 by the lender at the increased purchase price of \$205,000. Accordingly, on or about October 7,  
15 2014, Thomas W. wired Signature Escrow Service \$185,000 as the balance of the \$205,000  
16 purchase price plus an additional \$1,620 as the escrow fee for a total of \$186,620. As a result, the  
17 entire amount deposited by Thomas W. to Signature Escrow Service, including the \$20,000  
18 earnest money deposit previously made by Thomas W., was \$206,620.

19 18.

20 Due to delays in the close of escrow, on or about January 7, 2015, Thomas W. and  
21 the seller of the Lasselle Street Property both executed escrow cancellation instructions canceling  
22 the purchase and sale of the property.

23 19.

24 On or about January 23, 2015, Thomas W. went to Signature Escrow Service's  
25 business premises and picked up a post-dated escrow disbursement check (Check #91851) signed  
26 by Respondent PACHECO on behalf of Signature Escrow Service in the amount of \$206,620.  
27 The date on the refund check was January 27, 2015.



1 20.

2 Thereafter, on or about January 29, 2015, Check #91851 from Signature Escrow  
3 Service was returned to Thomas W. marked unpaid due to insufficient funds in Respondents'  
4 bank account.

5 21.

6 Despite subsequent repeat promises by Respondents and their agents that Thomas  
7 W.'s funds would be delivered to him, Respondents failed and refused to refund the sum of  
8 \$206,620 to him. The only sums received from Respondents by Thomas W. were two payments  
9 in the amount of \$2,500 each. Thomas W. was informed by Respondents and their agents that the  
10 foregoing \$5,000 in payments was intended to compensate Thomas W. for his "trouble" in  
11 failing to receive back the funds he deposited to Signature Escrow Service. As of the filing of the  
12 instant accusation, Thomas W.'s has not received a refund of his \$206,620.

13 22.

14 Respondents' representation that they would faithfully perform as represented in  
15 the escrow instructions was false and fraudulent in that Respondents had no intention of using  
16 Thomas W.'s funds to effectuate the completion of the sale of the Lasselle Street Property, and  
17 instead intended to convert Thomas W.'s funds to their own use and benefit.

18 11920 Ivy Lane, Moreno Valley Transaction

19 23.

20 In or around October, 2014, Francisco R. entered into an agreement for the  
21 purchase of the property at 11920 Ivy Lane, Moreno Valley, CA ("Ivy Lane Property"). As part  
22 of the purchase and sale transaction, Francisco R. made an earnest money deposit in the amount  
23 of \$8,850. The earnest money was deposited to Escrow No. 14-6304, Signature Escrow Service.

24 24.

25 Thereafter, on or about November 3, 2014, at the request of the seller of the Ivy  
26 Lane Property, Francisco R. executed an escrow cancellation instruction directing Signature  
27 Escrow Service to cancel Escrow No. 14-6304.

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25.

Upon the cancellation of the escrow with Signature Escrow Service, Francisco R. became entitled to receive back his earnest money deposit (less a \$200 fee) from Signature Escrow Service. On or about November 26, 2014, Francisco R. received an escrow refund check in the amount of \$8,650.

26.

Francisco R. deposited the refund check from Signature Escrow Service on or about December 3, 2014. On or about December 5, 2014, Francisco R.'s bank placed a hold on the deposited funds in his account on the ground that Francisco R.'s bank had reason to believe that the check from Signature Escrow Service would not be paid.

27.

Despite repeated requests by Francisco R. that Respondents refund the \$8,650 due to him, Respondents failed and refused to refund any portion of Francisco R.'s funds.

28.

Respondents' representation that they would faithfully perform as represented in the escrow instructions was false and fraudulent in that Respondents had no intention of using Francisco R.'s funds to effectuate the completion of the sale of the Ivy Lane Property, and instead intended to convert Francisco R.'s funds to their own use and benefit.

29.

The conduct, acts and/or omissions of Respondents as described herein above constitute making a substantial misrepresentation, the making of false promise(s) of a character likely to influence, persuade or induce, and/or fraud or dishonest dealing, and is cause for the suspension or revocation of all real estate licenses and license rights of Respondents under the provisions of Code Sections 10176(a), 10176(g), 10176(i) and/or 10177(j).

THIRD CAUSE OF ACCUSATION

(Failure to Supervise against PACHECO)

30.

1 Complainant hereby incorporates by referenced the allegations set forth in  
2 Paragraphs 1 through 29, above.

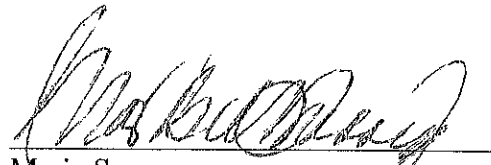
3 31.

4 The conduct, acts and/or omissions of PACHECO in allowing FRANKLIN to  
5 violate the Real Estate Law, as set forth above, constitutes a failure by PACHECO, as the officer  
6 designated by the corporate broker licensee, to exercise the supervision and control over the  
7 activities of FRANKLIN as required by Code Section 10159.2, and is cause to suspend or revoke  
8 the real estate licenses and license rights of PACHECO under Code Sections 10177(d), 10177(g)  
9 and/or 10177(h).

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

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
15 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
16 action against all the licenses and license rights of Respondents FRANKLIN EQUITY  
17 CORPORATION and ANDRES OMAR PACHECO under the Real Estate Law (Part 1 of  
18 Division 4 of the Business and Professions Code), for the cost of investigation and enforcement  
19 as permitted by law, for the cost of the audit and follow-up audit as provided in Code Section  
20 10148, and for such other and further relief as may be proper under other applicable provisions of  
21 law.

22 Dated at Los Angeles, California  
23 this 14<sup>th</sup> day of January, 2016.

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25   
26 Maria Suarez  
27 Deputy Real Estate Commissioner

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cc: FRANKLIN EQUITY CORPORATION  
ANDRES OMAR PACHECO  
Maria Suarez  
Sacto