1 2 3 4 5 6	JUDITH B. VASAN, Counsel (SBN 278115) Department of Real Estate 320 West 4th Street, Suite 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6982 Direct: (213) 576-6904 Fax: (213) 576-6917 Attorney for Complainant
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9	BEFORE THE DEPARTMENT OF REAL ESTATE
10	STATE OF CALIFORNIA
11	* * *
12	In the Matter of the Accusation of) DRE No. H-41705 LA
13	ESCROW IN A CINCH INC, doing business)
14	as Bay Cities Escrow, A Non-Independent) Broker Escrow and Capital Loans; and)
15	RUSSEL ISLAM, individually and as) Designated Officer of Escrow in a Cinch Inc.,)
16) Respondents.
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19	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
20	State of California, for cause of Accusation against ESCROW IN A CINCH INC, doing
21	business as Bay Cities Escrow, A Non-Independent Broker Escrow and Capital Loans, and
22	RUSSEL ISLAM, individually and as designated officer of Escrow in a Cinch Inc, (sometimes
23	collectively referred to as "Respondents") alleges as follows:
24	1.
25	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
26	State of California, makes this Accusation in her official capacity.
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1	2.
2	All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of
3	the California Business and Professions Code and all references to "Regulations" are to Title
4	10, Chapter 6 of the California Code of Regulations.
5	LICENSE HISTORY
6	(ESCROW IN A CINCH INC)
7	3.
8	a. Respondent ESCROW IN A CINCH INC ("EIACI") is presently licensed
9	and/or has license rights under the Code as a corporate real estate broker, Department of Real
10	Estate ("Department") license ID 02053707.
11	b. Respondent EIACI's corporate real estate license was originally issued on
12	January 23, 2018, and is scheduled to expire on January 22, 2022, unless renewed.
13	c. According to the Department's records to date, Respondent EIACI's main
14	office address 2121 Rosecrans Avenue, Suite 2310, El Segundo, California.
15	d. Respondent EIACI's designated officer is Respondent RUSSEL ISLAM
16	("ISLAM").
17	e. According to the Department's records to date, Respondent EIACI currently
18	maintains the fictitious business names "Bay Cities Escrow, A Non-Independent Broker
19	Escrow," and "Capital Loans" under its real estate license.
20	(RUSSEL ISLAM)
21	4.
22	a. Respondent ISLAM is presently licensed and/or has license rights under the
23	Code as a real estate broker, Department license ID 01874040.
24	b. Respondent ISLAM's individual broker license was originally issued on
25	November 17, 2009, and is scheduled to expire on November 16, 2021, unless renewed.
26	c. Respondent ISLAM currently holds a Mortgage Loan Originator license
27	endorsement with the Department, NMLS unique identifier 240330.

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1	d. Respondent ISLAM is the designated officer for Respondent EIACI. His
2	designation is scheduled to expire on May 23, 2021, unless renewed. As designated officer,
3	Respondent EIACI is responsible for the supervision of the activities conducted on behalf of
4	Respondent EIACI by its officers, agents, real estate licensees, and employees pursuant to
5	Section 10159.2 of the Code.
6	REAL ESTATE ACTIVITY
7	5.
8	At all times relevant herein Respondent EIACI, doing business as Bay Cities
9	Escrow, A Non-Independent Broker Escrow, and Capital Loans was engaged in the business of,
10	acted in the capacity of, advertised or assumed to act as a real estate broker, within the meaning
11	of Code section 10131(d) by soliciting borrowers or lenders for or negotiating loans or
12	collecting payments or performing services for borrowers or lenders or note owners in
13	connection with loans secured directly or collaterally by liens on real property ("mortgage loan
14	activity"). EIACI engaged in broker escrow services in the course of or incidental to its
15	mortgage loan activity in which EIACI was performing acts for which a real estate license is
16	required.
17	CAUSE FOR ACCUSATION
18	(AUDIT NO. LA190006 – BROKER ESCROW)
19	6.
20	On or about October 31, 2019, the Department completed an audit examination
21	(Audit No. LA190006) of the books and records of EIACI pertaining to its broker escrow
22	activities described in Paragraph 5 above. The audit examination covered the period of time
23	from May 1, 2018, to August 31, 2019 ("audit period"). The audit examination was limited to
24	EIACI's broker escrow activity only. The audit examination revealed violations of the Code
25	and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit
26	Report No. LA190006 and the exhibits and work papers attached to said audit report.
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1 7. 2 An entrance conference was held on September 3, 2019, at EIACI's main office location. The auditor met with ISLAM, who was the primary person who provided records for 3 the examination, and Surender Bhatia, an authorized representative. According to ISLAM and 4 the records examined, EIACI closed approximately twelve (12) broker escrow transactions in 5 the last twelve (12) months of the audit period. 6 7 8. 8 At all times mentioned herein, and in connection with the broker escrow activities described in Paragraph 5 above, EIACI accepted or received funds, including funds in 9 trust ("trust funds") from or on behalf of actual or prospective parties to transactions handled 10 11 by EIACI, and thereafter made deposits and/or disbursements of such funds. EIACI maintained one (1) bank account ("TA 1") to handle trust funds in connection with its broker escrow 12 activities during the audit period. From time-to-time during the audit period, said trust funds 13 were deposited and/or maintained in the following bank account: 14 15 Trust Account ("TA 1") 16 Bank: Comerica Bank 17 Account Name: Escrow in a Cinch Inc DBA Bay Cities Escrow, A Non-Independent 18 Broker Escrow Real Estate Broker Trust Account 19 Russel Islam as Trustee 20 Account Number: xxxxxx1317 21 Signatories: Russel Islam 22 Signatures required: One (1)23 Purpose: EIACI opened TA 1 on October 22, 2018, at Comerica Bank to replace a bank account maintained at Citibank. TA 1 was maintained for handling 24 25 trust fund receipts and disbursements in connection with EIACI's broker 26 escrow activity effective October 22, 2018. 27 ///

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1		Bank Account ("BA 1")
2	Bank:	Citibank
3	Account Name:	Escrow in a Cinch Inc DBA Bay Cities Escrow, A Non-Independent
4		Broker Escrow Real Estate Broker Trust Account
5	Account Number:	xxxxx3081
6	Signatories:	Russel Islam
7	Signatures required:	One (1)
8	Purpose:	BA 1 was maintained for handling trust fund receipts and disbursements
9		in connection with EIACI's broker escrow activities in 2018. BA 1 was
10		closed as of October 15, 2018.
11		Violations of the Real Estate Law
12		9.
13	The au	dit examination revealed violations of the Code and the Regulations, as
14	set forth in the follow	ing paragraphs, and more fully discussed in Audit Report No. LA190006
15	and the exhibits and v	work papers attached to the audit report:
16	(a) <u>Ha</u>	ndling of Trust Funds/Unauthorized Disbursements/When Broker
17	Handles Escrow (Co	de section 10145, Regulations section 2950(g)). In EIACI's escrow
18	transaction, Escrow N	o. 144-2018, for the property on Knox Street in San Fernando, California,
19	buyers were to pay \$2	,667.10 through escrow toward the county property taxes for July 11,
20	2018, to January 1, 20	19. The Final Settlement Statement, with a disbursement date of July 11,
21	2018, states that the se	eller in the transaction was credited the \$2,667.10. EIACI made an
22	unauthorized disburse	ment to sellers, instead of paying the property taxes on the Knox Street
23	property. The property	v taxes were never paid through escrow.
24	(b) <u>Tr</u> ı	st Account Designation/When Broker Handles Escrow (Code section
25	10145 and Regulatio	ns sections 2832 and 2951). Based on the signature card for BA 1, an
26	account used to hold b	roker escrow trust funds until October 15, 2018, BA 1 was not
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		ACCUSATION

designated as a trust account in the name of Escrow in a Cinch Inc or its licensed fictitious 1 2 business name as trustee.

(c) Trust Fund Records to Be Maintained/When Broker Handles Escrow 3 (Code section 10145 and Regulations sections 2831, 2950(d), 2951). EIACI did not maintain 4 5 a complete and accurate columnar record of trust funds receive and disbursed for BA1 and TA 1 during the audit period. The information pertaining to the "Date Deposited," "Date 6 Received," and "From whom trust funds received" was not always correct on the control record 7 for BA 1 and TA 1. 8

(d) Separate Record for Each Beneficiary or Transaction/When Broker Handles Escrow (Code 10145, Regulations sections 2831.1, 2950(d), 2951). EIACI did not 10 maintain complete and accurate separate records for BA 1 and TA 1 during the audit period. 11 The information pertaining to the "From whom trust funds received" was not always correct on 12 13 the separate records for BA 1 and TA 1. For example:

14	Escrow No.	Separate Record "Received From"	Actual "Received From"	Account
15	144-2018	Bay Cities Escrow	G.A. ¹	BA 1
16	144-2018	Bay Cities Escrow	G.A.	BA 1
17	100-2018	Bay Cities Escrow	Stewart Title	TA 1
18	101-2018	Bay Cities Escrow	Priority Title	TA 1
19	102-2018	Bay Cities Escrow	Priority Title	
20	110-2019	Bay Cities Escrow	T. & V. R.	TA 1
21	110-2019	UWM		TA 1
22			Pacific Coast Title	TA 1

(e) Handling of Trust Funds/Commingling/When Broker Handles Escrow 23 (Code section 10145, Regulations sections 2835, 2951). During the audit period, EIACI kept 24 \$235.27 of its funds in BA 1 as of September 10, 2018, which was more than the allowable 25 limit of \$200.00.

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¹ Initials are used in place of individual's full name to protect their privacy.

1 (f) Notice of Change of Broker (Code section 10161.8, Regulations section 2752). EIACI failed to notify the Real Estate Commissioner within 5 days of employment of 2 two broker associates during the audit period. According to the agreements provided, one 3 broker associate was employed as of December 12, 2018, and the other was employed as of 4 5 April 25, 2019. 6 (g) Use of Fictitious Name (Code section 10159.5, Regulations section 2731). EIACI used the unlicensed fictitious business name "Bay Cities Escrow" during the audit 7 period to conduct its broker escrow activities in all of the escrow transaction files examined. 8 EIACI also used "South Bay Funding" for the office directory and the office suite door plague 9 without first obtaining a license from the Department bearing such fictitious names. 10 11 (h) Responsibility of Corporate Office in Charge/Broker Supervision (Code sections 10159.2, 10177(h) and Regulations section 2725). Based on the violations in 12 Paragraphs 9(a)-(g) above, Respondent ISLAM failed to exercise adequate supervision and 13 control over Respondent EIACI's broker escrow activities conducted by EIACI's licensees and 14 its employees in violation of Code sections 10159.2 and 10177(h). Respondent ISLAM failed 15 to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage 16 transactions requiring a real estate license and the handling of trust funds in violation of 17 18 Regulations section 2725. 19 10. 20 Each of the foregoing violations in Paragraph 9(a)-(h) above constitutes cause for the suspension or revocation of the real estate license and/or license rights of Respondents 21 EIACI and ISLAM under the provisions of Code sections 10176(i), 10176(e), 10177(d) and/or 22 23 10177(g). 24 ///

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1	COSTS
2	(AUDIT COSTS)
3	11.
4	Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
5	Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
6	has found in a final decision, following a disciplinary hearing, that the broker has violated
7	Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
8	section.
9	(INVESTIGATION AND ENFORCEMENT COSTS)
10	12.
11	Section 10106 of the Code, provides, in pertinent part, that in any order issued in
12	resolution of a disciplinary proceeding before the Department, the Commissioner may request
13	the administrative law judge to direct a licensee found to have committed a violation of this
14	part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
15	case.
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1	WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2	this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3	action against all the licenses and/or license rights of Respondents ESCROW IN A CINCH
4	INC, doing business as Bay Cities Escrow, A Non-Independent Broker Escrow, and Capital
5	Loans, and RUSSEL ISLAM, individually and as designated officer of Escrow in a Cinch Inc,
6	under the Real Estate Law, for the costs of the audit, investigation, and enforcement as
7	permitted by law, and for such other and further relief as may be proper under other applicable
8	provisions of law.
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10	Dated at San Diego, California this day of, 2020.
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13	V Kelparnak
14	Veronica Kilpatrick Supervising Special Investigator
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24	cc: ESCROW IN A CINCH INC RUSSEL ISLAM
25	Veronica Kilpatrick Sacto.
26	Audits – Anitha Wijaya
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